

Governance and Politics in Post-Military Nigeria

Changes and Challenges



Edited by Said Adejumobi



GOVERNANCE AND POLITICS IN POST-MILITARY NIGERIA

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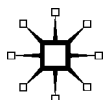
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Said Adejumobi

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First published in 2010 by
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175 Fifth Avenue, New York, NY 10010.

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Basingstoke, Hampshire RG21 6XS.

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ISBN: 978-0-230-10395-5

Library of Congress Cataloging-in-Publication Data

Governance and politics in post-military Nigeria : changes and
challenges / edited by Said Adejumbi.
p. cm.

ISBN 978-0-230-10395-5 (hardback)

1. Nigeria—Politics and government—1993–2007. 2. Nigeria—Politics
and government—2007– 3. Democratization—Nigeria. I. Adejumbi,
Said.

JQ3096.G675 2011
320.9669—dc22

2010020625

A catalogue record of the book is available from the British Library.

Design by Newgen Imaging Systems (P) Ltd., Chennai, India.

First edition: December 2010

10 9 8 7 6 5 4 3 2 1

Printed in the United States of America.

To Chima Ubani, Beko Ransome-Kuti, and Gani Fawehinmi
Three progressive Nigerians, who labored for but
never saw a Nigeria of their dreams

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ACKNOWLEDGMENTS

This book is one of two volumes that emerged from a national research project on “The Travails of Democracy in Nigeria,” initiated and coordinated by me, but supported by the Open Society Initiative for West Africa (OSIWA), Abuja and Dakar. The project was driven by two main objectives. First, Nigeria’s democratization process under the Obasanjo civilian administration did not play out as many Nigerians and non-Nigerians alike had expected. Hence, many people were concerned about the direction and future of democratic governance in the country. The question in embarking on the research project was, what went wrong under the Obasanjo presidency? Was Nigeria confronted with a structural problem beyond the capacity and ingenuity of the political leadership? Or was the political leadership part of the problem rather than the solution? Beyond media sensationalization and reporting, there was need for thorough intellectual reflection and analyses of Nigeria’s faltering democratic project. Second, the research was driven by a policy agenda. The need was to explore the strengths, challenges and pitfalls of democratic governance in post-military Nigeria and make appropriate policy recommendations, which subsequent regimes can find useful and adopt for improving governance in the country. Thus, many of the chapters in this book (as well as the second volume) end with key policy recommendations. With these two objectives, the book assembles some of the most profound and seasoned scholars and activists on Nigeria’s political economy.

I would like to thank Nana Tanko, the Executive Director of OSIWA, Dakar, Senegal, who remains a sister, outgoing friend, colleague, and dear comrade, for the confidence reposed in me in supporting this worthy project, and for her unswerving commitment to a better and well-governed Nigeria. In leading OSIWA, Nana never shied away from supporting worthy, yet controversial projects. Under her leadership OSIWA supported the civil society crusade against the third-term agenda of former President Olusegun Obasanjo. Also, Nana Afadzinu, the former Country Director of OSIWA, and Peter

Ocheikwu, Programme Officer, OSIWA, Abuja Office in Nigeria, were quite helpful. With smiles and pressure, they constantly urged me to complete the project and place the result before the general public. Similarly, I would like to thank the participants of the project, who are the chapter contributors to the book. In spite of our different worldviews, the common bond that unites us is the desire to see Nigeria take her rightful place among the comity of nations, drive the African agenda and promote a just, democratic, and caring society, where the welfare of the people will be of paramount importance, conflicts and crises will recede, and freedom, liberty, and the rule of law will reign supreme. It is this vision of a new Nigeria that defines this project. Finally, I would like to thank my children and my wife—Tunde, Zainab, Habib, and Titi—who have continued to endure my long periods away from home, in contributing in my little way, to making Nigeria and Africa better places to live in. Our shared aspiration is a “Nigeria that works.” Neither OSIWA, which sponsored the project from which this book emerged, nor the editor bears responsibility for the shortcomings of this book. Such lapses are those of individual authors and their social perceptions, intellectual persuasions, and lived experiences in preparing the chapters. As we are social beings, objectivity in social research is a relative concept!

Said Adejumobi
Addis Ababa, Ethiopia

ABBREVIATIONS

AC	Action Congress Party
ACE	Alliance for Credible Elections
ACP	African, Caribbean, and Pacific
AD	Alliance for Democracy
AfDB	African Development Bank
AFRICOM	U.S. Command for Africa
AFRIGOV	African Centre for Democratic Governance
AIT	Africa Independent Television
AMIS	African Union Mission in Sudan
ANPP	All Nigeria Peoples Party
APP	All People Party
APRM	African Peer Review Mechanism
ASCL	Ajaokuta Steel Company Limited
AU	African Union
BPE	Bureau for Public Enterprises
CA	Constituent Assembly
CAN	Christian Association of Nigeria
CAPP	Community Action for Popular Participation
CBN	Central Bank of Nigeria
CDD	Centre for Democracy and Development
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CEN-SAD	Sahel-Saharan Community
CET	Common External Tariff
CFCR	Citizens' Forum for Constitutional Reform
CHOGM	Commonwealth Heads of Government Meeting
CIDA	Canadian International Development Agency
CLEEN	Centre for Law Enforcement Education
CLO	Civil Liberties Organization
CMAG	Commonwealth Ministerial Action Group
CMC	Citizens Mediation Centre
COR	Cross River Ogoja State Movement
DFID	UK Department for International Development
DMO	Debt Management Office

DPA	Darfur Peace Accord
DCGG	Donor Coordinating Group on Gender
DDCM	Direct Data Capturing Machine
DPGG	Donor Group on Political Governance
DRC	Democratic Republic of the Congo
DTCA	Directorate for Technical Cooperation in Africa
ECA	Economic Commission for Africa
ECOMIL	ECOWAS Mission in Liberia
ECOSOC	UN Economic and Social Council
ECOWAS	Economic Community for West African States
EFCC	Economic and Financial Crimes Commission
EOM	European Union Election Observer Mission
ERN	Electoral Reform Network
ERP	Economic Recovery Programme
EU	European Union
FCT	Federal Capital Territory
FEDECO	Federal Electoral Commission
FGN	Federal Government of Nigeria
FIRS	Federal Inland Revenue Service
GCC	Gulf of Guinea Commission
GDP	gross domestic product
GECORN	Gender and Constitution Reform Network
HDI	Human Development Index
HYPPADEC	Hydro-Electric Power Areas Development Commission
ICJ	International Court of Justice
ICPC	Independent Corrupt Practices Commission
IDEA	International Institute for Democracy and Electoral Assistance
IDPs	internally displaced persons
IGAD	Inter-Governmental Authority on Development
IGP	Inspector General of Police
IMF	International Monetary Fund
INEC	Independent National Electoral Commission
IPCR	Institute for Peace and Conflict Resolution
IPPA	Investment Promotion and Protection Agreement
JDPC	Justice Development and Peace Commission
KM	Kaiama Declaration
MAN	Manufacturers Association of Nigeria
MCIA	Ministry of Cooperation and Integration in Africa
MFA	Ministry of Foreign Affairs
MNOCs	multinational oil corporations

MNR	Movement for National Reformation
MTel	Mobile Telecommunication of Nigeria
MOPOL	Mobile Police
MPRI	Military Professional Resources Incorporated
MULAC	Muslim League for Accountability
NADECO	National Democratic Coalition
NAFDAC	National Agency for Food and Drug Administration and Control
NANS	National Association of Nigerian Students
NAPTIP	National Agency for the Prohibition of Trafficking in Persons
NBOS	National Bureau of Statistics
NDDC	Niger Delta Development Commission
NDI	National Democratic Institute
NDLEA	National Drug Law Enforcement Agency
NEC	National Electoral Commission
NEEDS	National Economic Empowerment and Development Strategy
NEITI	Nigeria Extractive Industries Transparency Initiative
NEPAD	New Partnership for Africa's Development
NGOs	nongovernmental organizations
NHRC	National Human Rights Commission
NIDO	Nigerians in Diaspora Organization
NIIA	Nigerian Institute of International Affairs
NIOMCO	National Iron Ore Mining Company
NIPC	Nigerian Investment Promotion Commission
NITEL	Nigerian Telecommunications Limited
NLC	Nigeria Labor Congress
NNPC	Nigerian National Petroleum Corporation
NNVS	Nigerian National Volunteer Service
NPRC	National Political Reform Conference
NSCIA	Nigerian Supreme Council for Islamic Affairs
NTF	Nigerian Trust Fund
NYM	Nigerian Youth Movement
OAU	Organization of African Unity
OPC	Oodua Peoples Congress
OSI	Open Society Institute
OSIWA	Open Society Initiative for West Africa
PAIGC	African Party for the Independence of Guinea and Cape Verde
PDP	Peoples Democratic Party
PEFS	Programme on Ethnic and Federal Studies

PR	proportional representation
PRC	Provisional Ruling Council
PRONACO	Pro-National Conference
PWYP	Publish What You Pay
REC	resident electoral commissioner
SAP	Structural Adjustment Programme
SERAC	Social and Economic Rights Action Centre
SRI	Shelter Rights Initiative
TAC	Technical Aid Corps
TI	Transparency International
TMG	Transition Monitoring Group
TRANSCORP	Transnational Corporation of Nigeria
UMBC	United Middle Belt Congress
UNDP	United Nations Development Programme
UNMIL	United Nations Mission in Liberia
UNSC	United Nations Security Council
USAID	United States Agency for International Development
VP	vice president
WAGP	West African Gas Pipeline
WARDC	Women Advocates Research and Documentation Center
WORNACO	Women for Representative National Conference

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Democracy and Governance in Nigeria: Between Consolidation and Reversal

Said Adejumobi

First of all, I want you to leave democracy out of it. We don't have a democracy in Nigeria, at least for now... We have a government that is not responsible to anybody. Nobody to question them, it is a sad situation.

—Anthony Enahoro (2006)

The entire political system is a fraud against the Nigerian people and the present dispensation—at all levels—emerged fraudulently from the fraudulent political system.

—Edwin Madunagu (2010)

INTRODUCTION

Democracy and governance in Africa generally, as Larry Diamond (2008, 137) rightly observed, are in a “state of transition, or some will say, suspension.” The democratization process in Africa has seen many forms, and the course, trajectory, and outcomes have been mixed. In the last two decades in which re-democratization begun, the overall picture is that there has been only marginal progress on governance in Africa (UNECA 2009; Lindberg 2009; Diamond 2007 & 2008) but this overall picture masks sharp disparities among African countries. In some countries, progress has been visible with the conduct of credible elections, alternation of power among political parties, expansion of the political and civil space with better observance of human rights

and the rule of law, flourishing media, and modest economic progress.¹ Regrettably, many countries are neck-deep in a crisis of transition, in which there is large-scale election rigging, the trend toward a one-party state, marked inter-ethnic electoral conflicts and political violence, the concentration and personalization of power, and a new phenomenon of political dynasty in which leaders stage-manage power transfer to their children—all constituting ominous signs of a downward political slope in Africa's recent democratization effort.² In short, there is a huge gap between the demand and the supply of democracy and good governance in many African countries. While the people yearn for and prefer democratic governance as the most viable alternative for constructing a decent society and assuring a better future, the supply of it by the political elite is very limited, incongruent with the expectations of the people. As Elke Zuern (2009, 588) rightly noted, "Clearly, peoples' expectations are not being matched by the reality of governance." The frustration and cynicism that accompany this have provoked thoughts as to whether the "second liberation" in Africa is foundering and democracy is on the retreat.

In Nigeria, the return of the country to civilian rule in April 1999 ushered in a renewed hope that the lost opportunities for political progress and economic development squandered by successive despotic military regimes would be regained with the unleashing of the creative energies of the people in a new era of governance and democracy. But the nature of the political transition that would facilitate this change remained an issue of contention among Nigerian and Nigerianist scholars. Some argue that a smooth transition to civil rule will speedily assure the enthronement of democracy as long as adequate institutional design is crafted for the new system (Olagunju, Adele-Jinadu and Oyovbaire 1993). Others contend that given the depth of the decay and destruction of the political infrastructure and democratic culture of society, entrenched dominant interests will not likely give way easily, and the process of transition to democracy and good governance will be in two phases: first when civilian rule is consummated with the conduct of elections and second when democratic institutions are strengthened and democratic culture reigns (Adejumobi 1995). Current evidence suggests that there is a long and tortuous route to achieving democracy and good governance in Nigeria, and the process of democratic consolidation will be a long haul. Indeed, Larry Diamond (2008, 140) avers that in real terms, there is no democracy at all in Nigeria, as in four other big countries in Africa, which constitute a large chunk of the continent's population.³ For Adigun Agbaje (2004), Nigeria is a mere showcase of

“electoralism,” a caricature of electoral democracy, or what some others refer to as “electoral authoritarian regimes” (Lindberg 2009, 86). This introductory chapter briefly overviews Nigeria’s nascent democratic governance in the post-military era (post May 1999) and its shortfalls, and it sets up the arguments contained elsewhere in the book. The other chapters of the book elaborate on the dilemma of democracy and governance in Nigeria—its progress and challenges—and proffer key policy recommendations. The emphasis is on the period 1999–2007, which constitutes the two-term tenure of President Obasanjo, a period expected to lay a solid foundation for democracy in Nigeria.

STUNTED DEMOCRATIZATION OR DEMOCRATIC EROSION?

The literature on democratization in the third wave covers three major areas, which evolved as the progress and challenges of the process unfolded. These are democratic transition, democratic consolidation, and democratic quality. These issues are in a progressional form, and only countries that succeed in the former can in fact transition to the latter. Nigeria seems to be stuck in the initial democratization phase. Democratization involves the emergence and expansion of the democratic space and the building of the institutional infrastructure of a democratic system to ensure voice, accountability, due process and rule of law, and popular choice (Adejumobi 2002). Democratization is a continuous process of reforms and modifications of the institutions and practices in a given political regime, from fewer to more degrees of free and fair contestation and participation. As such, democratic norms and values as well as democratic institutions and practices are permanently open to revision—to include new aspirations, to exclude outdated practices, to embrace new standards of freedom, justice, and equality, and to have better material provisioning (Gonzalez and King 2004, 195). Democratization is therefore a continuum of progress or regression; of advances or setbacks/retreats, which countries make in their democratic journey. Thus, the issues of democratic consolidation, deconsolidation, or democratic erosion all exist within the democratization spectrum depicting the stage and performance of countries in the democratic maze. Democratic consolidation connotes a phase in which there is cumulative democratic progress—a process in which rules, institutions, and constraints of democracy come to constitute the “only game in town,” the only legitimate framework for seeking and exercising political power (Diamond 1997, xvii).

Democratic consolidation is about the gradual institutionalization of democratic culture and practices, and the predictability and regularization of political conduct based on democratic rules and norms in society. It is the routinization of democratic life. Democratic quality is the standard set and performance of democratic institutions and the dividends of the democratic process within a consolidating or consolidated democratic system. The antithesis of democratic consolidation is democratic deconsolidation or erosion and democratic breakdown or collapse, both depicting different forms of democratic regression. What are the main features or elements of democratic erosion, deconsolidating or nonconsolidating democracy?

- a) *Executive arrogation of power and a culture of impunity*: When executive leaders concentrate and consolidate power, subordinate other arms of government, and perpetuate impunity, democratic governance cannot function or flourish. What exists is personalized political rule, and civilian authoritarianism, negating the logic of separated powers and institutional autonomy central to democratic rule.
- b) *Rampant rights violations*: Democracy is a regime of rights. When the rights of the people, groups, and citizens are regularly violated, democratization would be undermined or significantly eroded.
- c) *Uncertainty of rules and procedure*: The routinization of democratic life central to democratic consolidation implies that rules, procedures, and processes are codified, well known, and predictable in their applicability. When this does not exist, the ‘rules of the jungle’ apply in which there are no set standards, and democracy is imperiled.
- d) *Lack of trust and cooperation among political stakeholders especially the political elite*: While democracy is based on competitive politics, its virtue, strength, and credibility rest on political trust and cooperation amongst key political stakeholders. The common understanding is that the “rules of the game” will be respected by all, electoral outcomes would be credible, and antidemocratic means will not be deployed for political gains or advantage by any party or individual. However, in eroding or deconsolidating democracy, there is usually a low level of trust and cooperation amongst political actors, with those outside the power equation in perpetual fear that state instrumentalities will be used against them, and they would be denied fair rules of political engagement.

- e) *Poor accountability—horizontal and vertical*: Democracy by its very nature is a system of accountability—of vertical political accountability between the leaders and the led, and of horizontal institutional accountability among the various organs and establishments of the state, with counteracting powers designed to checkmate institutional arbitrariness and corruption. When democratization erodes, accountability both vertical and horizontal tends to be weak or virtually nonexistent.
- f) *Flawed elections*: Elections are foundations of democratic governance. While elections do not approximate democracy, democracy is impossible or unrealizable without elections. Wherever and whenever elections are flawed, democracy is in jeopardy.

Table 1.1 depicts the stages of democratization in Africa and the features of the different stages and the place of different countries in this classification.

In the table 1.1, Nigeria is classified among stunted or eroding democratization. The section below describes the trends and dynamics of Nigeria's democratic governance sketching the deficits of Africa's biggest yet squandered hope of democratization. Three issues are isolated in the discussion on the trends—executive arrogation, institutional erosion, and welfare deficit.

EXECUTIVE ARROGATION

Samuel Huntington, writing about the challenges faced by the third wave of democratization in the Third World, noted that “threats to third wave democracies are likely to come not from generals and revolutionaries who have nothing but contempt for democracy, but rather from participants in the democratic process. These are political leaders and groups who win elections, take power and then manipulate the mechanisms of democracy to curtain or destroy democracy” (Huntington 1997, 8). One of such major threats to a nascent democracy from “within” is the issue of executive arrogation. Executive arrogation is a situation in which an elected executive or president concentrates power in his own hands, subordinates or even suspends the legislature, and rules with elements of impunity (Huntington 1997, 9). The transition to democracy in Africa has increasingly seen various levels of executive arrogation, in which authoritarian civilian leaders have emerged largely undistinguishable from their military predecessors. Regime types, whether presidential

Table 1.1 Stages of Democratization in Africa

<i>Stage of Democratization</i>	<i>Features</i>	<i>Countries (Examples)</i>
Consolidating Democratization	<ol style="list-style-type: none"> 1. Conduct of transparent and credible elections 2. Relative consensus and commitment to 'rules of the game' by the Political elite 3. Alternation of power 4. Fair guarantee and protection of civil and political liberties 5. Modest economic progress 	Ghana, South Africa, Botswana, Mauritius, Cape Verde, Benin
Post-War fragile Democratization	<ol style="list-style-type: none"> 1. Gradual restoration of order and stability 2. Conduct of fairly credible elections 3. Political consensus and settlement by political elite 4. Gradual restoration of civil and political rights 5. Rebuilding of shattered economies and institutions 	Sierra Leone, and Liberia
Stunted or Eroding Democratization	<ol style="list-style-type: none"> 1. Corrupt and non-credible elections 2. Lack of respect and commitment to democratic rules and ethos by the political elite 3. Deep social divisions and political and electoral conflicts 4. Poor constitutionalism Limited space for opposition parties 	Nigeria, Kenya, Uganda, Zimbabwe, Senegal, Ethiopia, Cameroon, Chad, Algeria, Egypt
Collapsed Democratization or enduring autocracies	<ol style="list-style-type: none"> 1. Resurgence of military rule 2. Lack of elections/massaged elections 3. Limited space for civil and political liberties 4. Personalized rule and executive arrogation of power 5. Poor accountability 	Mauritania, Guinea Conakry, Libya, Niger, Madagacar

Source: Author

or parliamentary, have made little difference in the construction and potency of power by Africa's political leaders (Cranenburgh 2008, 952–75; Cranenburgh 2003). The constitution and institutional framework of governance appropriates a large scope of power for Africa's executive leaders, and this combined with the personal penchant for control and subordination makes for a “larger than life” image of Africa's new political leaders. No Nigerian head of state, as Jean Herskovits (2007, 116) noted, had ever come into office with as much goodwill, at home and abroad, as did Obasanjo in 1999. The failure of military rule and Obasanjo's personal ordeal of unjust incarceration on trumped-up treason charges by the Abacha military junta engendered public sympathy and goodwill for him. On May 29, 1999, Obasanjo, in his inaugural speech as president of a traumatized nation, pledged to restore hope and confidence back into governance and rule according to the spirit and letters of the constitution. In his words:

I am very aware of the widespread cynicism and total lack of confidence in government arising from the bad faith, deceit and evil actions of recent administrations. Where official pronouncements are repeatedly made and not matched by action, government forfeits the confidence of the people and their trust. One of the immediate acts of this administration will be to implement quickly and decisively, measures that would restore confidence in governance On my part, I will give the forthright, purposeful, committed, honest and transparent leadership that the situation demands. (Obasanjo 1999, 2)

However, the reality of power and governance under the Obasanjo presidency played out quite differently from his declared intentions. There was a constant and perpetual accumulation of power in which the president became the fulcrum of policies, decisions, actions, and virtually all matters of state. Legal and extra-legal means were used in governance, opposition views were hardly accommodated but often ruthlessly suppressed (see chapters 5 and 7), horizontal and vertical accountability were almost absent, and institutional restraints by the executive especially in its dealings with other organs and layers of government became anathema. In this context, the culture of executive impunity or what some refer to as executive lawlessness assumed the norm. The Obasanjo regime regularly disobeyed court orders⁴ (see chapter 5) that it considered unfavorable

to it, determined whether and when to release constitutionally sanctioned statutory allocation funds to state and local governments, and assumed a paternal control over the local government authorities—all in contravention of the constitutional provisions on intergovernmental relations in the federation. A Nigerian public commentator, Levi Obijiofor, put it thus:

For eight years, Obasanjo led a government in which no one dared disagree with the president. It was a government in which alternative viewpoints were repressed because they were perceived as confrontational. And yet, each time Obasanjo travelled overseas, he took with him the hype that his government was democratic in name and practice. The jury is yet to reach a decision on that claim. (Obijiofor 2007, 15)

The Ikeja branch of the Nigerian Bar Association (NBA), displeased with the level of executive power arrogation and impunity in governance, declared in June 2004 that “illegality is synonymous with the Obasanjo government” (*Daily Independent*, June 3, 2004). Similarly, the then chief justice of the federation, Justice Mohammed Uwais, noted in his speech at the All Nigeria Judges Conference on December 5, 2005, that disregard and contempt for court orders was a regular pattern of the Obasanjo administration. Uwais lamented, “in a democratic set up like ours, obedience to the constitution is paramount and imperative since all key office holders under the constitution are made to take oaths of office, which enjoins us to protect and defend the constitution . . . failure to do so is an affront to the constitution and a clear evidence of bad governance . . . *those in authority and their agencies cannot pick and choose what court orders to obey. If they are aggrieved by the order, the only remedy open to them is to appeal, but in the meantime, the order must be obeyed*” (Uwais 2005). State governors could hardly disagree with the president, and they were expected to toe his political line. Those who were suspected of being “disloyal,” especially those from the same political party as the president—the Peoples Democratic Party (PDP)—were removed from office through questionable means, sidelined, or “punished” by the federal authority. A gale of impeachments of state governors swept across the country in states like Balyesa, Plateau, Ekiti, and Oyo (Adejumobi and Kehinde 2007; Agbaje and Adejumobi 2006; *Sunday Independent*, October 15, 2006). Obasanjo’s vice president, Atiku Abubakar, was also unconstitutionally removed from office in 2006 owing to differences between him and the president. It took a

Supreme Court decision voiding such action before Atiku Abubakar regained his position.

A spiritual interpretation of power was infused into the Obasanjo presidency (by his “followers”) in which the president was considered as a political messiah, rescued in his own words “from the valleys of the shadows of death” (Obasanjo 1999) to take Nigeria to new heights. Obasanjo therefore tended to rule with messianic bent, wherein his powers and “vision” was not to be bounded or constrained by any individual, organ, or institution. Adebayo Williams puts it poignantly:

But hampered and hamstrung from day one by a messianic zeal and a bemusing self-importance strangely at odds with its modest talents, the Obasanjo regime has ruled Nigeria like many of its predecessors: an occupied territory that can be vandalized and violated at will. In an unelected military regime drunken with power without responsibility this would not have mattered. But with an administration that is supposed to owe its existence to the electoral will of the national populace, this contradiction is bound to produce a harvest of nation-threatening crises and conflicts. (Williams 2007, 10)

Obasanjo’s reinforcement of the nature of executive presidency, and the reluctance to undertake constitutional reforms, affected the growth and stability of democratic governance and the essence of the structure of the Nigerian federal system. Rather than multiple centers of power and influence in a democratic system, and a robust atmosphere of democratic bargaining, dissent, and contestation, what existed were a unified centre of power and a political milieu of fear, frenzy, and docility diametrical to democratic progress. Public trust and confidence in governance, particularly in the Obasanjo regime, ebbed as the context was not particularly different from that of previous military rule. As Linus Obogo sums it up: “gradually, all the goodwill loaned to him to legitimize his spurious victory in 1999 began to ebb. The general mood of his band of faithful went sour, just as public confidence, hope and expectation took a downward swing” (Obogo 2007, 15).

INSTITUTIONAL EROSION

The logic of separation of powers and the growth of democratic institutions constitute the crux on which an enduring democracy rests. The institutions central to democratic functioning are the executive, parliament, the judiciary, political parties, civil society, and organs/institutions of restraint and oversight like the national human rights

institution, anticorruption bodies, the auditor general's office, and ombudsman. The Obasanjo regime created new institutions like the two anticorruption bodies—the Economic and Financial Crimes Commission (EFCC) and the Independent Corrupt Practices Commission (ICPC)—but did little to nurture or strengthen key institutions of democracy. Rather, in a systematic way, those institutions were abused and undermined, diluting and compromising their limited capacity to support the democratic agenda. The parliament, the judiciary, and political parties were badly affected by executive interference and subordination. The National Assembly, especially the Senate, was subjected to the presidency playing a key role in its affairs—major areas of executive intrusion include deciding who headed the Senate and House of Representatives and what issues were to be considered. The appointment of the Senate president, and consequently the course to take, were issues the presidency was deeply involved in. The level of leadership turnover of the Senate was very high—there were five Senate presidents in eight years, with an average of less than two years each in office.⁵ Their appointment and removal were in all cases orchestrated and covertly managed by the presidency. The National Assembly was often times split into factions sometimes with violent outbursts, mostly around the interests and politics of the executive. As Linus Obogo (2007, 15) observed, “single handedly, Obasanjo brought indiscretion into the hallowed chamber of the National Assembly by ensuring that peace was a rarity in both the Senate and the House of Representatives.”

Political parties including the ruling Peoples Democratic Party (PDP) also came under the sledgehammer of executive power. The need to build a personal political machine through gaining control of the ruling PDP compelled the Obasanjo regime to take drastic steps, which were in most cases antidemocratic and eroded the party's capacity for internal democracy and reform. First, most of the founding members of the party who could have insisted on order and procedure and provide resistance to presidential dominance of the party were either hounded out of the party or silenced.⁶ Second, the executive suborned the leadership of the party and ensured that it (the executive) played a lead role in appointing the party's leadership. As in the Senate, there was also a high leadership turnover rate in the PDP. In eight years, no less than four party chairmen were appointed.⁷ The internal party machinery was overhauled to give control to the presidency; hence, the party congresses and intraparty elections were mostly geared toward “electing” “presidentially sanctioned or approved candidates.” Executive loyalty and control took precedence

over internal party democracy. In this undemocratic context, a chain of informal networks of party control and loyalists from the national to the local level were erected, prompting violence, disorder, political assassination, and general insecurity in the internal workings and intraparty electoral processes of the PDP. A prominent founding member of the party, David Jemibewon, had this to say:

The aim of the founders of PDP was that it should be an all-embracing party of various opinions and attempt for the first time to have the principal political figures in the three major ethnic groups in this country—the East, West and North. And so every effort was geared to realize this. . . . *The initial hope, the initial vision, and initial objective of the PDP seem to have been lost. The founding fathers of the PDP did not imagine that what is happening today will happen. And so, there was no kind of anticipated remedy against Obasanjo having a tight grip on the party* [emphasis added]. (Jemibewon 2007, 3)

The other political parties were not particularly different from the PDP. They were mostly authoritarian, undemocratic, and weak. The executive at the federal level also used elements of infiltration, cooptation, patronage, and intimidation to balkanize and disable those opposition political parties. In sum, virtually all the political parties, as Adigun Agbaje observes in chapter 3 of this volume, do not deserve being referred to as political parties.

The institutions of restraint created by the Obasanjo regime—the anticorruption bodies and the national human rights institution, among others—had varying degrees of performance but were mostly subjected not to public accountability but to the personal accountability and loyalty of the president. Some of them exercised extrajudicial powers and regularly disobeyed court orders and legislative summonses.⁸ Indeed, it was not unusual for the heads of these institutions to publicly deride members of the National Assembly and disrespect the institution openly. The head of the national human rights institution, Bukhari Bello, was unprocedurally removed from office for what was generally believed to be his increasingly assertive and bold stance on human rights issues in Nigeria and the continent.

The judiciary as earlier noted had a rough exchange with the executive arm of government. Executive intimidation tactics included threats of demolition order on judges' homes, false accusations of corruption, and removal from the bench. There was the disobedience of court orders and the creation of patronage networks in the system in which spurious and unpopular judgments and court injunctions were given on behalf of the state and its agents. A group of prominent

Nigerians led by Nobel laureate Wole Soyinka, appalled by the affront to the rule of law and sanctity of the judiciary, issued a public statement entitled “*Rule of Law is the only peaceful option*” in April 2007. In the statement, the group noted:

Executive interference in the judiciary. The executive having failed in its primary responsibility has decided not only to pollute the spring of justice but also to destroy the temple. The executive has refused on many occasions to obey court orders as a result of which lawyers in 2006 had to go on strike. . . . The contempt which the Executive has for the courts no doubt encouraged attacks on some judges outside and inside the courts. (*The Nation*, April 13, 2007)

The consequence of the foregoing was that Nigeria’s nascent democratic governance was not complemented by institutional capacity, stability, and growth. Instead, there was uncertainty and instability in the institutional processes of governance, institutional capacity erosion and loss of credibility, the informalization of power in state and democratic institutions, and a decline in people’s trust and confidence once again in governance in the country, contrary to the inauguration promise Obasanjo handed Nigerians at the inception of his rule.

WELFARE DEFICIT

The Obasanjo regime undertook far-reaching economic reforms in the country. There was financial and banking sector reform, large scale privatization programs, liberalization of the telecommunication sector, and the introduction of an economic blueprint: the National Economic Empowerment and Development Strategy (NEEDS). The economy responded positively to those reforms with an average growth rate of about 6 percent from 2003 to 2007. There was also about 2 percent industrial growth rate from 2004 to 2006. However, this economic progress veils the deteriorating living conditions of the people in which basic social welfare services and economic infrastructure remained poor and dilapidated. Electricity generation remained erratic and grossly inadequate despite gulping billions of dollars under the regime, access to improved sanitation for urban residents declined, and life expectancy remained stagnant at 47 years—one of the lowest in the world. Paradoxically, poverty deepened as the country earned more oil wealth. In the course of Obasanjo’s eight-year rule, as Jean Herskovits (2007, 119) noted, Nigeria earned about

\$223 billion, two and half times the amount earned over the previous eight years. Herskovits (2007: 119) aptly captures the welfare conditions of the people under the regime:

Basic living conditions have also worsened. Electricity is scarce, and clean water is rare. Despite vast sums of money supposedly spent on federal roads, those roads have continued to deteriorate. Some 70 percent of Nigerians must get by on less than \$1 per day. The UN Development Program's 2006 Human Development Report ranked Nigeria 159th out of 177 countries studied. In 2004, mortality rate for children under the age of five averaged 217 deaths per 1,000 births—higher than anywhere in Coastal West Africa, apart from war-torn Liberia and Sierra Leone.

The privatization policy of the government boosted an emerging bourgeois class—a nouveau riche, while skewing class and social inequalities and differentiation in the country. There were also concerns that the country's privatization policy lacked transparency and that well-connected Nigerians, especially those connected to the presidency, grabbed most of the country's privatized firms at undercut prices. A mega-firm was created called the Transnational Corporation of Nigeria (TRANSCORP), with captains of industry from the different sections of the Nigerian business class—banking, insurance, manufacturing, trading, and currency speculation—as stakeholders. Some members of the political class, including President Obasanjo, were also shareholders. TRANSCORP became a new source of primitive capital accumulation in the country as major state investments like the NICON-NOGA-Hilton Hotel, Nigerian Telecommunications Limited (NITEL), and other priced and profitable state investments were sold to it. Those affiliated with TRANSCORP became new political and economic players in the country and were widely believed to have actively encouraged and supported the botched third-term agenda of President Obasanjo.

Given the nature of the Obasanjo regime, its mode of governance, and its outcomes, people's perceptions of the value and performance of democratic governance declined remarkably and so did their rating of the political leadership. In the Afrobarometer study during the Obasanjo regime, when Nigerians were asked about their satisfaction with the way democracy works in their country, fewer than half as many Nigerians felt positive in late 2003 as compared to in early 2000 when civilian rule was installed (Bratton and Lewis 2007, 10). Similarly, popular trust in political leaders, especially President Obasanjo, deflated from 77 percent in 2000 to 18 percent

Table 1.2 Economic Performance Indicators in Nigeria, 1992–2007 (All figures are percentages.)

<i>Indices</i>	<i>Years</i>															
	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007
1. GDP annual growth	3	2	0	2	4	3	2	1	5	3	2	10	11	5	6	6
2. Industrial production growth rate					4.1				1.5			0.4	230	2.4	380	–1.60
3. Social Indicators																
Accesses to health care																
Accesses to health care	51	51	51	51	51	51	51	51	51							58 (2009)
Life expectancy at birth	47	47		47		47			47	47	47	47	47	47	47	47
Accesses to improved sanitation (for urban residents)	40	40		34					34				44		35	

Accesses to education

Net Primary enrollment	58	59	59	59	59	59		58	60	63	63	63	63	63	63	63
Net Secondary enrollment	31	31	31	31	31			23			36			27	32	
Net Tertiary enrollment			41	41	41	41			4.02		8	8	10	10	10	10
			(Natural & applied Science)	(Natural & applied Science)	(Natural & applied Science)	(Natural & applied Science)										
Literacy (Adult)	55	55	55	57	69	69	69	69	69	69	69	69	69	70		72

Source: Compiled by the author from different sources:

1. World Bank Group: World Development Indicators, 2009
 2. World Development Indicators Data Base, Sep. 2009
 3. Human Development Index from 1995–2008
 4. World Economic and Financial Surveys: Regional Economic Outlook, SSA, Oct. 2008
 5. Education for All Global Monitoring Report, 2009
 6. Global Competitiveness Index, 2000
 7. Human development Indicators, 2007
 8. African Development Indicators, 2003/2004, 2007/2008
 9. African Statistics Year Book
- ECOWAS Social and Economic Indicators 2001–2005

in 2004 (Bratton and Lewis 2007, 15). Also, respondents rated the government (Obasanjo regime) poorly in the delivery of public goods, especially economic policy performance. The rating plummeted from 85 percent to about 26 percent positive. Bratton and Lewis (2007, 10) conclude the findings of the survey thus:

In short, Nigerians tend strongly toward the view that their democracy is unraveling rather than moving towards consolidation. All of these indicators suggest a profound disillusionment. Popular expectations, which in retrospect were widely over-optimistic at the moment of transition, have been frustrated with the passage of time. Nigerians now have a profound tendency to see their new democratic regime as headed in the wrong direction. In short, citizens perceive a deficient supply of democratic institutions from their leaders.

STRUCTURE OF THE BOOK

The other chapters of the book delve in detail into the gamut of democratic governance in post-military Nigeria. The second chapter is on the issue of federalism, political restructuring, and the national question in Nigeria, which has remained an intractable challenge to the country's existence. The discourse on the nature and character of the Nigerian federation resurfaced during the civilian administration, with various groups and interests campaigning for the reform of the federal system. While there was an attempt to seriously discuss the issue through the convening of the National Political Reform Conference (NPRC) by the federal government, such was clouded, enmeshed, and invariably subverted by the politics of political succession and the perceived manipulations of the process by the executive. Neither constitutional reform nor political restructuring was achieved under the Obasanjo regime.

Chapter 3 focuses on political parties in the Fourth Republic. Author Adigun Agbaje's contention is that there is a tendency to confuse form with substance; that beyond the object of winning elections through force and fraud, the political associations referred to as "political parties" in Nigeria do not merit being so called. Indeed, these parties, he warns, may spell the failure of the Fourth Republic. Agbaje concludes that all hopes are not lost. The project of restructuring the future of democracy in Nigeria will involve at least four key components: time, the political elite, the people, and institutions. The restructuring of political parties as key democratic institution is central to Nigeria's political future.

Chapter 4 is on the Independent National Electoral Commission (INEC) and the electoral process. The chapter analyzes the deteriorating cycle of electoral performance in Nigeria and evaluates the performance of INEC in this context from 1999 to 2007. The chapter argues that the entire electoral framework and cycle in Nigeria, from the electoral law to the registration of political parties and voters, logistical preparations for elections, and INEC's relationships both with political parties and with civil society, was mired in deep controversy and distrust, and the elections conducted during that period were all marked by grand electoral fraud, incompetence of the electoral commission, and general political disempowerment of the people. The chapter offers key policy recommendations to move the electoral agenda forward in Nigeria. These include political and financial autonomy for INEC, inclusion of technically competent civil society organizations (CSOs) in the electoral process, reform of the electoral law, reform of the electoral system, and electoral accountability.

Chapter 5 is on constitutionalism, rule of law, and human rights. The chapter contends that there was poor adherence to constitutionalism during the Obasanjo presidency as there was constant exercise of arbitrary power, lack of respect for rules and procedure, regular disobedience of court orders, a penchant for political impunity, and gross violation of human rights. Author Femi Falana concludes that constitutional reform is imperative in Nigeria in which a people's constitution must be enacted and the excessive powers of the executive curtailed.

Chapter 6 focuses on Nigeria's foreign policy. This is an area where the Obasanjo regime recorded remarkable successes and its political profile rose significantly. Nigeria's foreign policy in this period was geared toward facilitating its democratic transition and economic reforms. The process saw Nigeria being reconnected back to the international system and reasserting itself as a major player at the sub-regional, regional, and international levels. The country's economic diplomacy had major payoffs in the form of the cancellation of part of the nation's foreign debt by the international creditors, opening new south-south economic relations with countries like China and India, and promoting the NEPAD initiative. At the political level, Nigeria continued to play a major role in conflict mediation and resolution, peacekeeping, and regional security in Africa. In spite of these successes, Nigeria's foreign policy machinery remains incoherent and poorly organized.

Chapter 7, “The Masquerade Unmasked: Obasanjo and the Third-Term Debacle,” dwells on a major sore point in the Obasanjo presidency—the botched attempt at self-succession through changing the constitution to allow the president to run for a third term in office against existing constitutional provisions and the general wishes of the Nigerian people. The chapter details the context, issues involved, trajectory, politics, and scuttling of the agenda. Author Abubakar Siddique Mohammed argues that a coalition of forces—a segment of the political class, civil society, and the media—were instrumental in stopping the third-term bid of the Obasanjo regime. He concludes, like Falana, that there is need for constitutional reform to limit the executive powers of the president that allowed such an agenda to be initiated and thrive before it was stopped at a big cost to the people and the nation.

Chapter 8 is on the role of external actors in Nigeria’s democratization process. The emphasis of the chapter is on the efforts of the Open Society Initiative for West Africa (OSIWA) to support the process of expanding the democratic space in Nigeria. Some of the activities OSIWA undertook in this regard include support for the process of constitutional reform through the Citizens Forum for Constitutional Reform (CFCR), promotion of women’s rights in the constitutional and political processes, electoral reforms, a budget transparency initiative, legislative advocacy, and capacity building for civil society organizations and the government. Authors Nana Tanko and Nana Afadzinu in conclusion admit that in spite of the efforts of OSIWA, there is a long way to go in achieving the ideals of an open and democratic society in Nigeria.

CONCLUSION

This book constitutes a major interrogation of the progress of democratic governance in Nigeria in a post-military era. Certainly, it does not cover all issues, but it covers a significant proportion of the salient themes. The various chapters of the book reveal that post-military governance in Nigeria is embedded in authoritarian practices and culture, institutions are weak and often manipulated by dominant social forces, and the political leadership is increasingly bereft of public trust, credibility, and confidence. There appears to be disappointment and disillusionment in the people’s perceptions and expectations about their democratic system.

There are, in Nigeria’s faltering democracy, also opportunities: political contestation is alive and vibrant in the country; the

parliament and judiciary are increasingly asserting themselves to provide countervailing force against the executive arm of government, civil society remains a major part of the democratic watch, and political alliances and re-alliances are perpetually underway, which may ultimately change the nature and texture of the political game in the country. However, the fate and future of the country will largely be related to the character of the state and the political elite, a changing pattern toward a positive and progressive political culture, which presently is absent, and the invigoration of democratic social forces that continue to check and contest issues, policies, and direction of the country with the dominant political forces in the country. A people-centered economic policy that addresses basic welfare needs of public infrastructure (electricity, water supply, good roads, public security, and so forth) and guarantees decent livelihood for the people will be central in reclaiming the battered confidence of the people in democracy and governance in Nigeria. Democracy for the Nigerian people is about freedom, empowerment, and human dignity.

NOTES

1. Countries in this category include Ghana, South Africa, Botswana, Cape Verde, and Mauritius.
2. Countries in this category include Nigeria, Kenya, Uganda, Ethiopia, Eritrea, Senegal, Niger, and Burkina Faso.
3. The countries identified by Larry Diamond are Nigeria, Ethiopia, Kenya, Sudan, and Tanzania.
4. There were several instances in which the Obasanjo regime regularly disobeyed court orders. For instance, the ruling that the impeachment of Governor Rashidi Ladoja of Oyo state was illegal and he should be restored to power was ignored for a long time; the Supreme Court ruling in which the president was ordered to release the funds meant for local governments in Lagos state was refused; and also the Supreme Court ruling of April 2002 in which the court directed that the Nigerian National Petroleum Corporation (NNPC) should not have first line charges on the federation account was circumvented by the Obasanjo regime (the NNPC management was made to open two new offshore accounts—Special Receipt Account and Expenditure Account—in which first line charges continued to be made). For some details on the regime's wanton disobedience of court orders, see Dianam Dakolo, "The Siege is Over—Let the Bench say "Hurray"," *Daily Independent* (Lagos), May 31, 2007, p. B5. Also see Sonnie Ekwowusi, "Executive Lawlessness Vs Rule of Law," *ThisDay*, (Lagos) Vol. 11, No. 4106, July 19, 2006, p. 16.

5. The five senate presidents in eight years were Chuba Okadigbo, Evans Ewerem, Adolphous Wabara, Pius Anyiam, and Ken Nnamani.
6. Sunday Awoniyi, Solomon Lar, Abubakar Rimi, Audu Ogbeh, Alex Ekwueme, Jim Nwobodo, Edwin Ume-Ezeoke, etc.
7. Solomon Lar, Banabas Gemade, Audu Ogbeh, and Ahmadu Alli.
8. The EFCC under Nuhu Ribadu was very notorious for this. Although the agency was very active in its anticorruption crusade it often acted with lawlessness and arrogance.

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Federalism, Political Restructuring, and the Lingering National Question

Musa Abutudu

INTRODUCTION

The national question has remained an intractable challenge to Nigeria's existence. The debate revolves around the demand for restructuring of the federation and the elaboration of governmental structures in the country. The pattern of restructuring advocated has tended to follow closely the way the national question is framed. Federalism, the governmental framework of the Nigerian state, has been the subject of constant demands for tinkering or fundamental reforms since 1954 when it was first adopted, but these demands have been shaped by the underlying discourse on the national question.

Tensions between the component units and the center, between the constituent units themselves, and of various interests often fuel demands for restructuring. Various interests insist on a voice and the correction of perceived structural defects. Demands for equity and justice in the allocation of political space from minorities and marginalized groups have all made for a consistent and perennial stream of agitations for restructuring, which suggests that the search for a national community has remained elusive in Nigeria. In fact, the destabilizing effects of these agitations or even the potential for destabilization have always constituted a question mark on the legitimacy of the political order. There are substantive issues that need to be addressed through the restructuring process, but a lack of agreement

on what should qualify for inclusion in the restructuring agenda has been a weighty obstacle to launching the process. Equally fundamental, therefore, are the procedural issues that have to do with representation in the restructuring process, and in fact the structure of the restructuring process itself.

This chapter explores the dynamics of the national question and the demands for restructuring of the Nigerian federation since the return to civil rule in 1999. The debate and clamor for restructuring are situated in the twin contexts of the prevailing demands of accumulation and a legacy of authoritarian politics. Groups are identified and their platforms are examined within these contexts and, more specifically, in the manner they were set out in the National Political Reform Conference (NPRC) of 2005.

PERSPECTIVES ON THE NATIONAL QUESTION IN NIGERIA

The elusive search for stability and development in Nigeria is usually traced to the absence of a consensus on how the coexistence of the diverse peoples that make up the country should be managed. The constitution, expectedly the embodiment of a national consensus, has repeatedly failed in this task, a failure eloquently captured in the unending challenge of coming up with enduring constitutional provisions governing access to power, the distribution of power, the allocation of revenue, the units and levels of government, and so forth. Nigeria has operated one constitution after another since independence, all strongly contested by various groups often on grounds of inequitable access to power and resources. The general instability this connotes “promotes controversies, doubts and anxieties which are summed up within the expression the ‘National Question’—national because of the underlying assumption that though we may not be a nation yet, our goal is to become a nation-state” (Ajayi 1992, 14). Underlying this uncertain status of nationhood is the persistent challenge to the national community by ethnic and sub-national entities. This tends to produce adverse effects for political stability, legitimacy, and development (Ajayi 1992).

Two broad perspectives have dominated the discourse of the national question in Nigeria. These are the ethno-relativist and the class perspectives (Eteng 1998). A third perspective links the national question to agitations against dictatorship in the country, and, therefore, as essentially a struggle for the expansion of democratic space (Soyinka 1996). For the ethno-relativists, the primary actors in the

national question are ethnic nationalities and other groups who are committed to defending sectional ethnic or regional interests. The issue is how different nationalities and communal groups in a multinational state will coexist and conduct their mutual relations. The core symptom of the national question is “the existence of micro-nationalisms challenging, and competing with, loyalty for the nation state” (Onyeoziri 2002, 10). In other words, competing ethnic groups and nationalities and how to manage inter-group relations constitute the national question. For Ajayi (1992, 14), the national question is

the perennial debate as to how to order the relations between the different ethnic, linguistic and cultural groupings so that they have the same rights and privileges, access to power and equitable share of national resources; debate as to whether or not we are on the right course towards the goal of nationhood; debate as to whether our constitution facilitate or inhibit our march to nationhood; or whether the goal itself is mistaken and we should seek other political arrangements to facilitate our search for legitimacy and development.

However, what produces the acrimonious relations that form the core of the problem is the consciousness of individuals that claim the affiliation of these groups. Thus, Oyovbaire defines the national question as “the concrete problems of social existence arising from assertive competition among persons who possess multi-ethnic or communal and regional consciousness, which in Nigeria was created in its foundation by the turn of the 19th century, and of its articulation since that time, by and under colonial domination” (Oyovbaire 1989, 385–86). The multiple communities, differentiated in cultural and numerical terms as well as political practice, were lumped together within a dependent capitalist economy that induced intense competitive modernization among preexisting groups and new forms. The classes and class relations arising out of the coexistence of these have imparted forms of behaviors that pit tradition against modernity. As Oyovbaire further argues, the continued propagation of the pre-colonial forms compete for loyalty with the Nigerian state, a situation which, when, coupled with the dependent and disarticulated economic framework of the coexistence of the nationalities, at once defines the national question and makes it particularly difficult to resolve (Oyovbaire 1989, 386).

The national question then is played out in the marked and contrived reluctance of the ethnic nationalities and other close-knit groups in Nigerian society to subordinate their group loyalties to loyalty to the nation-state, which constitutes the foundation of political

instability in Nigeria. The primary group loyalties are seen as being deliberately manipulated by “tribalists,” ethnic jingoists, religious fundamentalists, or class forces in furtherance of their own selfish political and economic objectives. In light of this, “the realistic meaning of the national question should be this, namely: how do we contain the threat potential of competitive sub-nationalism to the state? How do we convert the pride and support nationalities have for their nations into pride and support for the state to which they belong purely as citizens?” (Onyeoziri 2007, 43).

Another variant of the ethno-relativist perspective conceptualizes the national question in terms of a systematic attempt by the central authorities to suppress and subjugate the nationalities that make up Nigeria. Multinationality in the first case puts an emphasis on the rights of the ethnic nationality and the necessity of preserving its identity. The ethnic group is seen as existing historically prior to the national entity, Nigeria. In emphasizing the historical uniqueness, identity, culture, and rights of the ethnic nationality, there is also a strong concomitant claim for political identity that must necessarily ensure its autonomous continuity and development. For Enahoro (2002, 8), the nationalities preceded Nigeria and must be “the true partners and stakeholders in the Union of Nigeria.” The challenges facing the Nigerian state become issues bordering on an inability to manage the diverse nationalities by reinventing their historical autonomy.

The failure of Nigeria so far may be attributed in great part to the perennial tensions and conflicts among its nationalities, resulting from mutual insecurity, poverty, jealousies and fears. Rather than manage primordial identities, which are our nationalities, positively, successive constitutions have studiously and dismissively ignored them. But as disillusionment with the Nigerian project has grown, it is to these very celebrated identities that the people have begun to look for refuge. (Enahoro 2002, 8)

From this perspective, therefore, resolving the national question should involve reforms that must give the historical ethnic nationalities and sub-nationalities political meaning. Such meaning must be embodied in specific governmental units, structures, and institutions with pronounced autonomy, and in partnership with the central authority. Unlike the first variant of the ethno-relativist perspective, the national question effectively pans out as the *nationality question* or the ethnic question (Afigbo 1988). What has to be borne in

mind is that “the Federal Government of Nigeria is an agency of the Nigerian nationalities which make up the various States,” it (the federal government) being a product of the coming together of hitherto autonomous communities (Sagay, 2001, 11). The issue then is about “liberating” the nationalities from the subjugation of a modern-day, artificial, and colonially imposed nation-state.

The main anchor of the nationality question is that the ethnic groups that make up Nigeria predate the Nigerian state. On this premise, it is argued that the ethnic nationalities should form the units of federation and that the balance of power in the federation should be in their favor. This favorable balance should include the right of a nationality to opt out of the union if its continued membership becomes inimical to its interests and identity. Of overriding concern, therefore, is the preservation of the identity of the individual nationality as opposed to submerging this into a multinational Nigerian community.

This notion of precedence of the constituent nationalities over the Nigerian state needs some careful examination. The fact of mutual intelligibility by way of language and religious and other cultural practices does not necessarily imply that the consciousness of unity or even the authority structures that seemingly define these nationalities in contemporary Nigeria were present in them prior to their emergence as constituents of Nigeria. Linguistic and cultural affinity did not automatically translate to nationhood (Mustapha 1986, 83). People with shared language and culture sometimes lived under different types of political arrangements. At the same time, political arrangements showed affinity across linguistic and cultural lines. In fact, as has been well established, the consciousnesses of identity that underlies most of the ethnic nationalities that constitute the Nigerian nation were formed in the context of the dynamics unleashed by the colonial enterprise (Nnoli 1980). If this is the case, the argument of precedence of the ethnic nationality is at best a tenuous one. Outside the objective sense of some common primordial base (often unacknowledged in terms of joint political structures or activities in pre-colonial times), ethnic identities in contemporary Nigeria evolved in tandem with Nigeria and were indeed shaped into what they are in relation to the evolution of the Nigerian state. Most of the ethnic nationalities that we speak about today did not see themselves as nationalities as such before colonial rule. In their contemporary forms, they are just about as old as Nigeria. In any case, as Nzongola-Ntalaja points out, “there is no *a priori* reason why social ties and sentiments based on blood

and kinship should necessarily take precedence and at all times over other forms of sociability and solidarity". Even then, nationalities and ethnic identities, like all other identity forms, are dynamic and "can appear and disappear in the long march of history" (Nzongola-Ntalaja, 2007, 13).

From a class perspective, the national question in Nigeria reflects the internal contradictions within the dominant classes in which ethnicity and nationalities are employed as instruments of political struggle. The objective imbalances between ethnic nationalities and component units of the federation are acknowledged. However, the national question arises not so much from the existence of imbalances. It is rather the manner in which difference and imbalance are mediated by the class character of the Nigerian state (Mustapha 1986; Asobie 1996; Jega 1996; Eteng 1998; Momoh 2002). According to Jega (1996, 88), the national question in Nigeria

is essentially about actual inequalities, regional imbalances, relations of ethnic domination, cultural and religious antagonisms and competition as well as perceptions arising from these. However, it is not being concretely addressed. Instead, it is being complicated by the way the ruling classes have used perceptions of regional struggles and inequalities, and so on, in their struggles for accumulation and in enhancing the strategies they pursue in advancing their interests.

In a context where the dominant ambition behind the struggle for state power is "to control the state and its resources, which are then vandalised and appropriated" (Jega 1996, 91), ethnicity is central to means of struggle. Huge resources are centralized by way of federal control. In the struggle for access to, and control of, the central government, the invocation of ethnic and group loyalties constitute a critical, even if sometimes deadly, selling point for an elite that is bereft of any vision of development. Material benefits accruing to office holders are held out as benefits accruing to the primary group of the office holder. This tends to heighten the rivalries between major ethnic groups, minority groups, and the component units of the federation. At the same time, it heightens the perception that the state belongs to the ethnic nationality, region, or religion of those who occupy its topmost positions.

A third perspective considers the national question in Africa as generally an issue that is underscored by widespread dictatorship in the continent. Questions about the "nation-being" may be raised in relation to language, cultural awareness, or the unsatisfactory aspects

of economic arrangements that could act as “a triggering mechanism for the recollection of some other identity” (Soyinka 1996, 279). This questioning may not be taken further once it is satisfactorily resolved. Yet, demands by groups and individuals to be heard for recognition within nations have been met with brutal repression. Such repression is officially rationalized by “the state, or the aspiring state” in the name of “some programme in the cause of a mere concept of nationhood,” that cause becoming an end in itself, not a means toward “the elevation of humanity, the enhancement of its productive potential or the harmonization of its relationship with power and authority.” Thus, as the demands for nation-building become the rationale for the steady slide into dictatorship, “the nation-ideal becomes a notion beyond the centrality of human livelihood” (Soyinka 1996, 283).

The national question, then, is about nationhood and development. It becomes clear, therefore, that the national question looms large in the context of dictatorship. Democratic participation and the collective charting of the destiny of the collectivity are central to the idea of nationhood. “A nation is a collective enterprise. Outside of that, it is mostly a gambling space for the opportunism and adventurism of power.” Indeed, “under a dictatorship, a nation ceases to exist” (Soyinka 1996, 286, 297). For Soyinka, it is this fact of living under a dictatorship that forces people to retreat into their cultural identities. Dictatorship and oppression, typically “the oppression of nations and national minorities” (Woods and Grant 2000), has always been central to the national question. What Soyinka’s rendition makes clear is that if the structure and usage of power within the national state is such as to deny the humanity of the individual as well as sub-national entities, then the essence of nationhood will be seriously undermined.

The character of the state is, therefore, central to shaping the national question. The issues bordering on the national question arise not necessarily due to the fact that differences exist, but due to how differences are managed by the state and the ways to which dominant classes choose to put difference to use in their quest for political power or to hold on to power.

THE NATIONAL QUESTION, FEDERALISM, AND MILITARY RULE

In Nigeria, the national question is an ongoing debate, fueled by societal dynamics acting as constant reminders that at inception,

the people that make up the country were not consulted and did not extend any mandate for the creation of an entity called Nigeria. These dynamics sometimes rise to peaks of crises, at which points the calls for restructuring become even more strident amid agitated public debates (Tamuno 1998, 17). The period since the return to civil rule in 1999 has seen a further heightening of the debate on the national question. The spate of calls for the restructuring of the country suggests that Nigeria has yet to find an acceptable formula for managing national diversity. The fear of political domination, perceived inequity in the sharing of resources, marginalization, imbalance in the federal structure, the (faulty) operation of a federal system with a unitary mindset, and the indigenes-versus-settlers dichotomy, with all its implications for citizenship in a democratic state, are some of the underlying concerns driving the quest for political restructuring. The intensification of the Niger Delta crisis, the introduction or extension of the Islamic legal system (sharia) into criminal matters in many northern states, the persistent quest for chiefs of state of particular zonal extraction, the demand for “true” federalism, the demand for local resource control, and so on are all reflections of the fact that the return to civil and “democratic” rule in 1999 did not in any way produce the much-sought-after constitutional, policy, and program mix for managing Nigeria’s diversity. While the demands for restructuring are always more strident following political and social upheavals such as violent ethnic and communal clashes or grievously faulty political moves, such as the annulment of the presidential elections of 1993, there are some who make such demands in the general context of expanding democratic space in Nigeria.

The challenge of administering the multiple nationalities and cultures brought together under colonialism was met by the British with the practical approach of separate administrations of amalgamated parts. This incipient regionalism was to become a major policy approach to the national question (Onyeoziri 2002). Regionalism was elaborated into a full-blown federal principle by 1954, a development that resolved the long British dilemma over unitarianism versus federalism in their administration of the Nigerian territory (Nwabughuogu 1996).

Regionalism and the establishment of the federal system highlighted, if not created, the minority question. Complaints by minority groups against their submergence, marginalization, and domination within the three regions that defined Nigeria’s constituent units at the onset of federalism in 1954 created the platform for agitation for the

creation of more regions (states) to accommodate their interests. The Willink Commission of 1957, which was the colonial state's response to these demands, discounted the logic of increasing the constituent units. Rather, it recommended in the main that the fears of minorities should be assuaged through making provisions for fundamental human rights in the constitution. In the specific case of the Niger Delta, it recommended a special agency to tackle the developmental challenges of the area (Akinyele 1996). These recommendations were implemented, but they did not resolve the issues that prompted them. The fear of domination was not limited to minorities within regions. The regions themselves exhibited much apprehension about exclusion from governmental arrangements from the center. A highly regionalized party system and pronounced asymmetries in the size of the three regions made this a trigger for agitation in post-colonial Nigeria.

The Action Group crisis of 1962 and the controversy surrounding the census of 1963 created a lot of tension. This tension was felt in the strenuous effort put forth by the regionally dominated political parties to win the general elections of 1964 and control the central government at all costs. The delicate political balance in which executive power was shared between a prime minister and a president under the parliamentary system of government was put to the test when the president displayed marked reluctance in appointing the leader of the declared victor of the 1964 general elections as prime minister. Although the stalemate that this reluctance threatened to impose on the business of governance was aborted through various interventions, the threat posed to national community by regional and ethnic based parties was quite real. It was also becoming clear that for purposes of promoting national unity in a federal framework such as Nigeria, the legislative—executive arrangements of the parliamentary system of government contained weaknesses that needed to be addressed.

The stage was thus set for the military to rationalize their overthrow of “democratic” civil order in July 1966. Military rule reshaped federalism and charted a new course for the national question. Under the argument that the unbridled reign of centrifugal forces in the civilian dispensation was the main problem of the Nigerian state, the regime of General Aguiyi Ironsi tried its hand at concentrating power at the center by abolishing the regional governments and creating provinces in their stead, with the military rulers of the provinces posted directly from the headquarters. This move might have been a reflexive introduction of military logic

into national governance. However, the development was read as an attempt to transfer political power to a section of the country through the application of force. This real or imagined attempt to replace federalism with unitary government was met with stiff resistance, and it culminated in a second coup that took place barely six months after the first one.

The counter-coup of July 1966 created an administration that supposedly restored the federal principle as the operative governmental platform, although the initial plans of its initiators included separation of the northern region from the rest of the country (Kukah 1993, 40). However, not only was this federal principle generally negated in practice, the violation of the cardinal principle of military hierarchy in the constitution of the military regime's political leadership created a new challenge as obedience to military orders threatened to succumb to regionalism. The threat of secession by the eastern region was met with the creation of twelve states out of the four regions. The declaration of the Republic of Biafra meant a slide to civil war.

Military rule redefined the shape of federalism in Nigeria (Adejumobi 2002; Ihonvbere 2004; Nwolise 2005). The internal logic of the military as an institution that puts a premium on chain of command will tend to lead to centralization when reproduced in government. The 12-states structure, which came into existence in 1967 (and the subsequent state creation exercises), did not obstruct this. Rather, it suited the logic of authoritarian military rule. First, the new component units or states, being smaller in size and resources, had also become weaker in relation to the power of the central government. The division of power between the component units was essentially reduced to what the center found permissible. The imposition of the military chain of command through the central appointment of the governors of the states ensured that this was rigorously implemented. This was further cemented with the gradual reformulation of fiscal federalism in a way that centralized the national resource base so that the states increasingly had to depend on the center for virtually all of their financial and developmental resources. Apart from the derivation principle gradually losing grounds in revenue allocation between the states and the central government (from approximately 50 percent when the military took over down to 3 percent under Babangida and 13 percent during the Abacha regime), decrees were also promulgated under military rule to further centralize the control of critical resources. The Petroleum Act of 1969 and the Land Use Act of 1978 were the core of this

process (Mbanefoh and Egwakhide 1998; Obi 1998). The military's ready acquiescence to the demand for creation of more states (and creation of local government councils), which weakened the sub-national units, but paradoxically, became of importance, in growing and maintaining the critical support base for the military (Ekekwe 1986; Suberu 1998).

In terms of nation-building, the military came up with a policy framework aimed at the transfer of loyalty from "pre-capitalist traditions and small-territory horizons" to the central authorities (Oyovbaire 1988, 391). This is apparent, for example, in the National Youth Service Corps scheme introduced by the Gowon Administration in 1973. The central government took over regional universities while establishing new ones. Unity schools were also established in various states of the country, and the notion of federal character, later to be enshrined in the 1979 Constitution, became the policy peg of employment and appointments in public service. In economic activities, "the Nigerian state was propelled into direct intervention in productive investments in industry, agriculture and finance, to generate employment on a large scale..." (Oyovbaire 1988, 390). Indigenization of foreign business concerns was added to these. The strong state interventionist role in social and economic development and the ensuing enhanced citizens' welfare, which was expected to spearhead the assault on traditional group loyalties, were essentially underwritten by huge revenues from the export of crude oil. In essence, the nation-state project that the military embarked upon was being financed by revenues derived from one major source: oil, which came only from a certain region of Nigeria. This fact, along with the military's mode of governance, was to prove the Achilles' heel of this model of the nation-state project. Indeed, the contradictions in the oil-financed national project and their implications for the national question were to become very apparent with the economic downturn that started in the early 1980s.

If the authoritarian character of military rule became the main basis of the exclusionist condition in which the southeastern states have elaborated the national question, the centralization of oil-derived revenues formed the main platform on which groups in the oil-producing belt, the Niger Delta, would define their own position within the Nigerian social formation. While the gradual erosion of the derivation principle was to bottom out at 1 percent by the time of the brief period of civil rule (1979–83), the impact of the decline in the derivation principle on the oil-producing area

was to be felt even more forcefully with the onset of economic crisis and structural adjustment in the 1980s. This crisis, precipitated by the rapid fall of the price of crude oil on the world market in 1982, saw revenues to the state take a deep plunge. This adversely affected the national budget. It also created fundamental adversity in the balance of payments position of the country. The International Monetary Fund and the World Bank, when approached for help, insisted on the adoption of a structural adjustment program that would entail a massive retrenchment of the state. Rolling back the state meant the privatization of public enterprises, removal of subsidies from social services and petroleum products, devaluation of the national currency, retrenchment of workers, and so on. All this meant the abandonment of the welfare and developmental basis of the post-colonial nation-state project (Laasko and Olukoshi 1996). The economic crisis and the structural adjustment program adopted by the Babangida administration set off a general unemployment crisis that sent people back to their cultural groups as the main bastion of social insurance, which was fast disappearing from the formal sector (Osaghae 1995). Increasing religious fundamentalism and conflicts arising therefrom were to exacerbate and lend an increasingly violent flavor to intercommunal relations (Egwu 2001).

The vast reduction in revenue accruing from oil became a source of pressure on the central government's ability to increase allocation to the states. In the case of the oil-producing states, the response was demand for control of their own natural resources. In effect, "federal hegemony in the multi-cultural and multi-national context of Nigeria is increasingly being questioned" (Obi 1998, 269). This problem gathered steam in the late 1980s with Ogoniland as its arrowhead. By the 1990s, the agitation had become generalized to virtually the whole region. Perhaps, the Niger Delta crisis and the issues raised therein have become the major defining features of the national question in Nigeria. Militia groups have gradually taken root in the region, directing their activities at the agents of the Nigerian state as well as the multinational oil corporations whose activities have become a source of environmental degradation as well as social deprivation (Ikelegbe 2005).

Military authoritarianism and its role in increasing ethnic and sectional tensions was brought into sharp focus in 1993 when the presidential election of that year, adjudged free and fair by both international and local observers, was annulled by General Ibrahim Babangida (Abutudu 1997; Omoruyi 1999). That ethnic and

regional tensions were already high under the Babangida regime was apparent in the attempted military coup of April 1990, in which the coup leaders tried to “resolve” the national question by forcefully excising some parts of the country from the federation. The program of transition to civil rule under which the 1993 election took place was anything but smooth. While the engineering of the program suggested a serious effort at some lasting political design for the country, the disruptive influence of the military rulers at various stages of its execution not only brought out the self-serving character of military rule, it also showed how the very capricious element in the military mindset can provoke serious tensions among various groups.

One of the main tools of nation-building under the transition program was the party system. In transitions to democracy in Nigeria, the artificial construct of a party system had become one of the main instruments of addressing the tendency toward extreme sectionalism in the country. The 1975–79 program of transition to civil rule had sought to do this by making provisions for the registration of political parties in order to qualify to perform the functions of political parties. To be registered, political parties were expected to be national in outlook, as opposed to being founded on some smaller group principle or having only a regional presence. This did not work out as planned, as most of the political parties in the short-lived Second Republic (1979–83) reestablished themselves on regional foundations. The transition program under the Babangida regime sought to avoid this by decreeing two political parties into existence, complete with ideologies, manifestoes, and even administrative apparatuses. The presidential election of June 12, 1993, suggested that this strategy achieved its aim, as the winner, Moshood Abiola, easily commanded a healthy majority in most of the states of the federation. In spite of this hugely nationalist sentiment by the Nigerian electorate, the military rulers annulled the election. The reasons given for the annulment did not make any sense to most Nigerians. Public outrage and ensuing mass protests swept across the country. The government deliberately played up the ethnic character of the protests in order to prevent them from being seen as what they were: a spontaneous, pan-Nigerian mass movement. Once the issue was portrayed by the military as a crisis in which only those of the same ethnic stock as the winner of the annulled election had an abiding interest, the issue took on two basic interpretations. The military in power represented the dominance of a particular section of the country, a section that

would lose power if the election results were upheld. This general north—south complexion to the crisis took on the specific character of the north versus the southwest as the latter gradually became the hotbed of de-annulment politics. The National Democratic Coalition (NADECO) sought the release of the winner of the 1993 presidential election (taken into detention by the Abacha regime), the restoration of his mandate, and the convening of a sovereign national conference to restructure the polity. For this, NADECO's members were sent into hiding, detained, hounded into exile, or even killed.

The demands for restructuring that emanated from this process echoed some earlier calls at specific periods in Nigerian history, except that this particular crisis gave these demands renewed intensity. Confronted with military repression, militia groups emerged to defend sectional positions against a military regime that was increasingly perceived as defending personal and regional interests. One of the main groups that emerged in the context of the prolonged crisis of annulment was the Oodua Peoples Congress (OPC), which became active by 1994 (Ikelegbe 2005, 494). This was the situation that pushed the regime of General Sani Abacha, searching desperately for legitimacy, to convene a constitutional conference in 1995 (Dibua 2006, 122).

The constitutional conference of the Abacha regime did not earn the respect of most groups in the south, especially as it fell short of the core demand by ethnic nationality groups and civil society for a sovereign national conference (Amuwo 1998, 83). Furthermore, it was apparent that the government would tolerate only sympathetic voices within the conference. For these and other reasons, various groups, especially in the southwest, did not send their “starting lineup,” who were not available in any case as they were already in detention, in hiding, or hounded into exile. The notion of power sharing as put forward by the constitutional conference was subsequently modified by General Abacha in 1995. The modification was to the effect that instead of two zones for the rotation of power, there would now be six zones, namely the northeast, the northwest, the middle belt, the southwest, the southeast, and the south-south. A duplication of the French plural executive model, with a president, a vice president, and a prime minister, was envisaged (Agbaje 1998, 125–27; Dibua 2006, 122–124; Olaitan 1998). However, the sudden death of General Abacha in 1998 was to put these arrangements on hold.

THE NATIONAL QUESTION AND POLITICAL RESTRUCTURING IN POST-MILITARY NIGERIA

Most of the people of northern Nigeria may not have derived any benefit from prolonged military rule, but the dominant discourse of the national question presents military rule as having seriously skewed political power in favor of the northern region. This belief and its attendant consequences gave rise to or intensified ethnic and regional sentiments on the need to restructure the federation in order to achieve a more balanced relation among the ethnic nationalities and component units. This was apparently felt in the effort of southern delegates in the Abacha Constitutional Conference to widen the concept of zoning beyond its north—south dichotomy to a six-zone configuration. This arrangement has taken on much significance in the continuing effort to resolve the national question since the military returned to their barracks in 1999. Political perspectives on restructuring have been harnessed and hardened along these zonal lines. Yet, civil society groups have marshaled a strong pan-Nigerian element.

The main threats to Nigerian nationhood since 1999 are generally not new. It might have been expected that with the advent of democratic rule, the intensity of some of the conflicts defining the national question would have been mitigated by the changed circumstances. However, this has not been the case. It is apparent that the constitution bequeathed by the brief administration of General Abdul Salam Abubakar, no matter how well meaning, retained many of the characteristic political practices of domination that decades of military rule have threatened to institutionalize. Since the return to civil rule in 1999, the debate on the national question and the associated clamor for restructuring has revolved around a number of issues. These are examined in what follows.

The Framework of Federalism

The division of power between the central government and the component states had generally become more skewed in favor of the federal government since the advent of military rule. As pointed out earlier, this had to do with the logic of the military as an institution as well as its specific notion of nationalism, under which it tended to continually assume responsibilities for services that the individual states could have provided conveniently. Centralization tends to

reduce local autonomy and the self-expression that the latter promotes. With central power widely perceived to be regionalized at the time Nigeria came under military rule, demands for decentralization found expression in agitation for confederation, true federalism, and self-determination. In fact, for various groups in southern Nigeria, the demand for restructuring to reflect the tenets of *true federalism* has become the critical issue in the efforts to tackle the national question. True federalism appears to be recognition that the pattern of division of powers that preserves a long list of exclusive powers for the federal government while the states only share concurrent powers in which they are clearly subordinate to the center skews power too much in favor of the center. For its advocates, reserving residual matters for the states (as was the case under the 1963 Constitution but abolished by the 1979 Constitution) would go a long way to redress the balance of power in favor of the component units. In other words, it is necessary to restore residual matters to the constitution (SEED n.d., 8). Matters dealing with local government that have pitted the federal government against Lagos state and a few others to a lesser degree are a case in point. Imo state, for example, articulated the position that local government should be created by states or regions, and the federal government should be divested of all forms of control of local government (Onwubiko 2005, 8).

Another question of regional versus central authority is whether the police force should be federally controlled, as it is currently, or whether, in view of the fact that a state's chief executive is the chief security officer of the state, it would be much more helpful to have a state police. This is why some states have insisted that the incongruence between their constitutional duties in regard to security and the actual tools at their disposal to their citizens and properties secure need to be given careful consideration and ameliorated. It has to be pointed out that it was the military that had abolished the local and native authority police when they came to power in 1966. The excuse for this action was that these local security forces were used against perceived political opponents, ironically the same way the current federally controlled police force is seen as being politicized (Ubani 2002, 115). However, those opposed to the local control of the police force have countered that there is no guarantee that state police, if created, will not reproduce the same atrocities on behalf of their masters as the police do under the current arrangement. Some people, especially from the southeast, have therefore canvassed for a regionalization of the police force. Such a police force would

be expected to have command at the level of each zone. The same is advocated for the military, especially the army and the air force: regional commands should be created in accordance with the six-zone structure. Furthermore, the position of the Imo state government is “that 80% of the personnel of the Armed Forces should be drawn from the region in which each command is located while the composition of the Officer Corps should reflect Federal Character. The composition of the officers and men in the Nigerian Navy should reflect the balance between the six regions” (Onwubiko 2005, 8). Whether these commands will be autonomous operations or not, however, is not clear.

Opposition to the concentration of power at the center of government has provoked calls for devolution of powers to regions, which are presumably to be formed out of the existing states through a process of fusion. The Movement for National Reformation (MNR) has been at the forefront of the campaign for regionalism. Specifically, it calls for the abolition of concurrent powers in the division of powers between the two levels of government. Rather, all powers should be residual and should reside with the regions. According to this proposal, the central government should exercise powers only in matters that have been specifically assigned to it (Enahoro 2002, 9). How the current states should fare in a framework of this nature remains quite clouded. Some protagonists of true federalism who seem to find room for regions in the same arrangement tackled this issue during the 2005 National Political Reform Conference (NPRC), by arguing that the six geopolitical zones should be formalized as regions and used for purposes of appointments and project allocation in line with the federal character principle. In fact, they argue that the federal character principle should be applied according to regions, and that the principle should not be limited to employments and appointments alone but must also be deployed in the allocation of projects. On the other hand, the current units, the states, should continue to be used as the units of government and the effective place for the constitutional division of power and the residence of the organs of government.

Yet there are those who hold that for true federalism to exist, each component unit must be able to generate its own resources for its administration. This would put a serious question mark on the current state structure, which survives on the basis of the allocation of centralized oil-derived revenues. As long as this logic of resource allocation holds, the demand for creation of states will continue unabated. This of course will further weaken the states in relation

to the federal government. This truth was generally lost on even the advocates of true federalism whose zones came to the NPRC with demands for creation of more states in their respective zones. Apparently, it was an acceptable argument that new states have to be created. But zonal balance, strongly supported by the southeast as the new, emerging yardstick for state creation, confirms the possibility of further proliferation. State creation in effect has become just one of the “projects” or a “resource” to be allocated under the federal character principle.

Resource Control

From the point of view of the Niger Delta activists, and elements from the south-south zone in general, resource control is at the heart of the national question and the critical requirement for a just and equitable federation. It perhaps defines the challenges to nationhood in Nigeria more than any other issue. The agitation of the people of the Niger Delta has been a long one, assuming various shapes since the country’s independence (Roberts and Oladeji 2005). It has spurned various notions of self-determination, the most popular being embodied in the Ogoni Bill of Rights and the Ijaw-based Kaiama Declaration. Others include the Oron Bill of Rights, the Urhobo Economic Summit Resolution, the Warri Accord, and the Aklaka Declaration of the Egi (Oronto 2005, 33). Under the leadership of Ken Saro Wiwa, the Ogoni people had articulated the position that 50 percent of the resources found in Ogoniland should be given to the people to develop for themselves. This would help the people tackle the environmental degradation and insecurity that the exploitation of crude oil had visited on them (Odje 2005, 71). This demand was not in any way extraordinary, given that prior to the military incursion into politics, the derivation principle, which was the core of Nigeria’s revenue allocation formula, commanded as high a percentage. In effect, the demand was essentially one directed at restoring fiscal federalism to its earlier form. This was also more in keeping with the need to come to grips with the unwholesome environmental and economic realities of the area that are consequences of oil production.

However, the articulation of the issue of resource control since 1999 has taken on stronger notions of ownership and control. In the first place, there is an emerging demand that mineral resources and all other resources found in any area or community be owned and controlled by the community. One major implication of this is

that the legal framework built up over the years, and under which the federal government had systematically taken control of these resources, should be dismantled (Sagay 2001; Orontos 2005; Odje 2005; Madunagu 2005a). What the federal government should then have is taxing power.

This notion of resource control should not be too strange in the context of the current economic thrust of the federal government. Indeed, as the Nigerian state retrenches itself from direct productive activities and the ownership of the means of production, the legal tools with which the resources of the oil-producing areas were earlier expropriated from their owners need to be equally liberated from an overbearing state. The continued existence of this legal framework is suggestive of a warped socialization of the means of production when the same government policy defines its economic thrust in terms of the privatization of the means of production. This line of thought will also appear to clear the confusion on the question of where ownership and control ought to rest: with the state government or with the community that comprises the natural owners of the resources. The state governments should, like the federal government, exercise only taxing power or control normally associated with establishment rights as well as supervisory authority to ensure conformity to industrial standards.

Of course, an issue such as resource control was bound to generate a lot of heat at the NPRC. As pointed out earlier, it formed the core of south-south demand for restructuring. But it was never packaged in the context of current general economic thrust of the government. It appears to be in the interest of both sides to retain resource control within the public sector. The only question is which level of government—state or federal? By the time of its presentation at the conference, resource control had taken on the familiar form of agitation for an increase in the derivation principle from 13 percent to 50 percent. The reversion to the derivation principle as the concrete expression of resource control was meant as a compromise position since delegates from other zones were more disposed to support derivation rather than the kind of ownership suggested by the new concept (Okolo 2005, 9). It also brought the issue down to a more familiar turf, where most of the delegates, from all sides, were apparently more comfortable. This did not go down well with Niger Delta militants who, already engaged in some degree of armed struggle, felt that the new position deviated sharply from the resource ownership and control they were fighting for.

However, even in its rather watered-down form, reversion to the derivation principle proved to be one of the most divisive elements of the entire conference. Many delegates, especially from other zones, criticized the concept on various grounds. First, they argued that it relies on a misconception of the actual form of the earlier practice of the derivation principle in the 1960s; contrary to the position of the proponents of resource control, the 1960 and 1963 constitutions did not give 50 percent derivation to the mineral-producing areas. Rather, what these constitutions provided for was 50 percent of mining rents and royalties to the producing areas (Abubakar 2005, 1). Second, there were those who maintained that the concept was faulty given that the current Nigerian practice was in accord with other Third World oil producers where ownership was national. In any case, it was further argued that the resources for developing the oil fields to their current stage were “resources from other parts of the country,” rather than the resources of the communities where crude oil and gas are found. Finally, the opposition argued that the protection of the oil wells is the responsibility of the Nigerian military, which contains elements from all parts of Nigeria.

It has been pointed out that Nigeria, unlike the other countries often cited (such as Saudi Arabia, Indonesia, Algeria, the United Kingdom, Venezuela, and Kazakhstan) is a federal state. The diversity that this feature implies and specific autonomy constitutionally guaranteed for the expression of local diversity in federal systems renders this kind of comparison tenuous, if not totally inapplicable, in the Nigerian case. On the issue of the seed money for the development of oil resources in Nigeria, it has been argued that it was not “resources from other parts of the country,” as certain elements have claimed, but resources from multinational companies (Orontos 2005, 33; Akiri 2005, 9). To support the existing practice as being in accordance with the law of the land seems to lose sight of the fact that this very legal framework was put in place essentially through a specific regional political dominance in the first place. The struggle for local resource control is, according to its proponents, a struggle with multiple objectives. It aims to return resources and natural endowments to the states and local communities. It is developmental in the sense that it promises to not only make local resources available for local development but also make the resource owners the locus of the development process. Finally, supporters of local resource control insist that it is the critical tool in a struggle to restructure Nigeria, an essential element in any

effort to redress long years of authoritarian and sectional political domination.

Given this conceptualization of resource control, it was hardly surprising that the level of acrimony surrounding the issue at the national conference would get to a point where some delegates would threaten to demand that the governors of states in the Niger Delta should be asked to account for the huge sums of money already accruing to them from the existing 13 percent derivation. In fact, 19 non-oil-producing states had taken the federal government to court on the grounds that even the 13 percent derivation in place was unconstitutional. The Supreme Court judgment on the onshore/offshore dichotomy was a wound that also rested on the same legal framework so much opposed by the south-south. In this case, the offshore resources were restored to the coastal states by the National Assembly.

Delegates from the south-south had tried to garner support from the southeast, the southwest, and the north-central. The basis of this was supposedly a shared interest in true federalism. There were even hints that the south-south was ready to support the core north on the critical issue of producing the president of the federal republic in 2007, a concession that would have undermined the south-south's own claim to that position, if only to get the necessary support for resource control. It is also apparent that the south-south would have supported a northern motion for the setting up of the Hydro-Power Electric Power Areas Development Commission (HYPPADEC) if it had been seriously advanced at the conference. The creation of this commission was championed by some northern states where power-generating resources and facilities are located. The Yobe state government had argued that

it was unfair for oil producing states to enjoy 13 per cent derivation as well as Niger-Delta Development Commission (NDDC), when states that supply power to Nigerians, and whose lands have been devastated by the effects of these facilities do not enjoy any such facilities. (Igandan 2005, 12)

The HYPPADEC proposal ended up not being forwarded at the conference. With this, a potential point of convergence across regions on resource control fizzled out. However, when it came to adopting a conference position on resource control, it was clear that the south-south zone was isolated. Even when the zone further backed down on derivation to 25 percent, the other zones showed a marked reluctance

to even accept 18 percent. This prompted the walk-out of the south-south delegates from the NPRC and the submission of a minority report embodying its position.

The south-south delegates were outvoted. This immediately raises the question whether volatile issues of this nature should be subjected to majoritarian procedures for resolution. However, the situation was more complex than simple majority voting. What appears to have happened is that the supposedly moderate faction of the resource control movement, as represented by the face of south-south zonal officialdom, not only faced possible loss of respect from more militant factions by seriously watering down the concept of resource control, it also found itself unable to get other zones to appreciate and support its position. The walk-out and the minority report should be seen in the context of this dilemma as an attempt to preserve the integrity of the moderate faction before its constituents. Whatever the case, this outcome could only have vindicated and strengthened those militants who had already taken to the field and dismissed the NPRC as a waste of time and scarce resources.

Rotational Presidency

Rotational presidency has been a major, contentious issue among the zones. The southeast has heavily campaigned for rotational presidency since the 1994 constitutional conference of the Abacha military junta. It has come on even more strongly since 1999. What has become apparent since then is the acceptance in principle of the concept of rotational presidency. However, the tension that the concept still evokes has to do with what constitutes the primary units of rotation of that office and the order of rotation. Most of those who claim to speak for the north insist that the primary units of rotation should be the northern and southern regions. These regions must succeed one another in holding the position (Abuh 2005, 9). However, those who claim to speak for the southern region hold the view that the presidency should be rotated among all six geopolitical zones. At the NPRC, the south-south, the southeast, and the southwest all adopted this position. Their justification for this stance was that the north had dominated the office of the president or chief executive of Nigeria since independence. Justice, equity, and fairness would demand that all be given a sense of inclusion through being able to aspire to the highest office in the land. Thus, a committee of the NPRC recommended that “the principle and practice of rotation along zonal

lines based on equity, justice and fairness should be enshrined in the Constitution.” Another committee was even more specific how this should be done:

The Office of the President of the Federal Republic of Nigeria shall rotate consecutively in such a manner that all the six geo-political zones in turn produce the president of the Federal Republic of Nigeria alternatively between northern and southern parts of the country. (Esajare 2005, 8)

Two levels of rotation are suggested here. The first level is between the north and the south. The second level is zonal, but zones within north or south. At level one, if the presidency is held by the north, for example, then at the next dispensation, it must be held by the south. At this point, the second level comes into play. If at the previous southern dispensation at the presidency, Zone A held the office, then Zone A will no longer be eligible during the second dispensation of the south. The office must move to another zone within the south.

This interpretation agrees with the position of the northern delegates. It does not find favor with the southern elements who insisted that the arrangement did not assuage the sense of exclusion long felt by the southern zones in the Nigerian federation. Thus, for delegates from the southeast and, to a lesser extent, the south-south, returning the presidency to the north so soon after long years of holding it amounted to perpetuating the existing sense of exclusion while preserving what had become a virtual northern privilege.

The main problem with the idea of rotational presidency is how different parties must synchronize their choice of presidential candidates in order to ensure that they all come from the same zone or region in order to satisfy its requirements. Assuming that political parties are able to surmount this obstacle, the question that has to be posed is whether the people are truly given the opportunity to make a free choice. Even more importantly, the question as to what the presidency means to the average person from the zone that produces the president is never considered. Yet, for groups from zones that were desirous of clinching the presidency, a lot of efforts were dissipated in strategizing within and across the country. For example, the Ohanaeze Ndigbo predicated its approach to capturing the presidency in the 2007 election on “a two-pronged strategy of maintaining unity among the Igbo and friendship with other tribes” (Sobechi 2005, 3).

Citizenship and Indigeneity

Nigeria is yet to come to terms with a concept of citizenship that guarantees equality to all her subjects. No matter how long someone has lived in a place, as long as that place is not the ancestral place, the rights of citizenship are typically abridged. Such rights, to be claimed and enjoyed, must see relocation to the ancestral place. One might not even have been born in that ancestral place. The person might never have visited before, never paid a dime in tax, or not even understand the language. Yet, it is often the only place where the rights of citizenship can be asserted. Thus, irrespective of what the constitution says, it is only *indigenship*, and not citizenship, that confers certain civic rights. It is practically impossible to seek elective office in the state of one's domicile, if it does not coincide with the state of origin of one's parents. This is irrespective of tax status. Often, too, students or "strangers" are discriminated against on the basis of indigenship. Again, tax and residential status are immaterial. Employment follows the same lines, and when given, it might be only on contract, just as for expatriates. Often very hard hit by matters of this nature are women married to men outside their states of origin. For jobs or seeking public office, they can only return to the latter or "answer their fathers' names."

This certainly encourages parochialism, prevents assimilation, hardens ethnic and cultural identities, and promotes ethno-religious violence. At the NPRC, delegates from the southeast and the middle belt whose indigenes have been the subjects of some of the worst cases of ethno-regional violence gave the issue specific mention. The former called for freedom of movement and the right to vote and be voted for wherever anyone may live. For the middle belt delegates, it was a call for definite statement on the status of citizenship and indigeneity (Igandan 2005, 12). However, a form of dual citizenship within the country has been proposed as a way forward (Hamzat 2005, 15). One of the citizenships should be national and it "presupposes that all Nigerians are Nigerian Citizens." The other "says that even though you are a Nigerian citizen, you are also a citizen of a particular state . . ." This form of citizenship has two requirements. They are residency and payment of tax, each of which must have been for a period of at least five years (Hamzat 2005, 15). Once these are met in respect of a state, that person becomes a citizen of that state irrespective of state of origin. In fact, given that a person cannot be a citizen of two states simultaneously—that is, cannot claim the rights of citizenship in two or more states at the

same time—*indigenship* will no longer serve as the basis of effective political and social rights.

Disempowering *indigenship* in this manner may just be the tonic for the elusive national community, at least from the perspective of transferring loyalty from one's cultural group to the Nigerian nation.

Sharia and Secularity of the State

Sharia, or the Islamic legal system, has been part and parcel of the legal system in northern Nigeria since colonial times. However, it has been limited in its application, covering only civil matters among those who profess the Islamic faith. Even at this very limited level of application, there were strong expressions of its practice as being contradictory to the constitutional guarantee of the secularity of the Nigerian state. But as long as it was regional and limited in application, it readily fell within customary law and the permissiveness of the diversity principle in federal systems. However, a red flag was raised in 1978 when Muslim delegates (especially from the northern region) to the Constituent Assembly deliberating on a new constitution for the country decided to introduce the Sharia Supreme Court of Appeal into the Constitution. This generated strong opposition from delegates from the south and some of their colleagues from the middle belt. The stalemate and walk-out by the northern delegates was broken only when the issue was added to the list of no-go areas of discussion that the Obasanjo regime had created to set aside sensitive issues at the conference. Among the grounds of opposition were that the measure would violate the secular character of the Nigerian state while also compelling the financing of that violation from the federal purse. But even at this time, sharia did not extend beyond civil matters. The same controversy was replayed at the 1995 and 1999 constitutional review processes.

National tension around sharia was heightened when it was expanded to incorporate criminal matters in Zamfara in 1999. This was followed by 11 other states adopting it in the north (Abdu 2005). For the Christian Association of Nigeria, this was an attempt to Islamize states that were multi-religious. It was therefore a direct assault on the freedom of religion as provided in the constitution, an infringement on the multi-religious character of Nigerian society, and a violation of the secularity of the Nigerian state. The president was asked to intervene to prevent the kind of religious zealotry that has wreaked carnage on countries such as Northern Ireland, Sudan, and Lebanon. "In Cross River State, the House of Assembly passed a

resolution that it was going to introduce Canon law (Christian law) if Shari'ah was allowed in Zamfara state" (Abdu 2005, 41).

The proponents of sharia readily found support in the constitution. Its provisions on freedom of thought, conscience, and religion provided refuge. Federalism provided an anchor. Of course, the provisions were not going to apply to non-Muslims. But this did not provide the needed balm to a tense situation in which the bizarre response of the Cross River House of Assembly manifested the kinds of sentiments at play. As Abdu noted,

In ethnically and religiously divided states with a long history of conflict, like Kaduna and Bauchi, violence of ethno-religious character erupted, resulting in the wanton destruction of lives and property with implications for further entrenchment of divisions in communities around religious lines. (2005, 42)

It is worth noting that with the introduction of sharia in many states in northern Nigeria, many fresh graduates of southern origin tended to dread the prospects of being posted to the states where sharia had become applicable to serve their one-year compulsory national service. In effect, the introduction of the measure and its widespread adoption was politically destabilizing. It threatened to undermine even those programs put in place to enhance development of a national community. One major irony about the argument in support of sharia is the claim that it is fully in accord with the principle of autonomy of the component units in the federal system. Yet this autonomy is generally denied on matters relating to issues such as resource control.

The Politics of Constitutional Review: The NPRC and the National Question

The advent of the civilian administration in 1999 was a welcome development to Nigerians. However, for various groups, the 1999 Constitution of the Federal Republic of Nigeria was seen as defective in a number of respects in the manner in which the national question was to be grappled with. Reviewing the constitution became an urgent task for groups in civil society as well as for government itself. One of the shortcomings that civil groups identified was the genesis of the constitution. The 1999 constitution was created by military fiat, having been put together by a handful of military-appointed individuals who were equally circumscribed in their constitutional vision by way of "no-go" areas. Starting with the 1979 Constitution,

the military had always excluded certain matters from discussion in the constitution-making committees they set up. These issues, often the most critical on the national question, were usually inserted into the constitution according to the wisdom of the military rulers. Generally therefore, the Nigerian people often did not have any definitive say on how their country should be structured and run. The process of making the 1999 Constitution followed this same procedure and was therefore seen as grossly falling short of the basic requirements for constitution making—namely, inclusivity, diversity, participation, transparency/openness, autonomy, accountability, and legitimacy (Igbuzor 2002, 10–13).

For most advocates of restructuring outside government such as the Movement for National Reformation (MNR) and NADECO (and in general those groups whose trajectories took off in the context of anti-SAP and anti-annulment protests of the 1980s and 1990s), the kind of restructuring required must be driven by a sovereign national conference (Enahoro 2002). However, others would want the sovereignty of the people expressed via submitting the draft constitution for approval and then adopting it by referendum after being put together by a democratically elected body representing various interests chosen for that particular purpose. This position also found support among state governments in some parts of the country. For most governors in the west from 1999 to 2003, the support for a sovereign national conference derived from their NADECO and anti-annulment roots. For those in the east during this same period, it was in the contest of the events of the times in which the residential status of the Igbo in some parts of the country was increasingly precarious in the light of incessant ethno-religious riots and extension of sharia into criminal matters (*Sunday Champion* March 12, 2000, 17).

The federal government acknowledged that there were flaws in the constitution but insisted that there was no room for sovereign national conference as the way forward. Its excuse for this, which found favor among various cultural interest groups in the north and, quite notably, Ohanaeze Ndigbo in the east, was that a government was already in place, elected by the people and exercising sovereign powers on its behalf (*The Post Express* March 15, 2000, 1–2). The National Assembly supported this position. As the deliberative and law-making arm of government, the National Assembly made it clear that it was the appropriate body with the constitutional powers to carry out any restructuring that was required.

It became apparent, therefore, that moving forward via the sovereign national conference route was not going to receive the support of

government. In the face of this, the advocates of sovereign conference started thinking of going ahead with their own conference, although how the product of this conference was to be assimilated into the Nigerian constitution was unclear. In the case of the civil society groups, now organized as the Pro-National Conference (PRONACO), their proposed conference was a matter of when it would hold. On the other hand, it was the government that had earlier ruled out the idea of a conference that suddenly announced in December 2004 that it was convening a forum for national dialogue on restructuring the country. This change of position might have been influenced by the need to prevent PRONACO from seizing the initiative on constitutional reforms. Some saw it as President Obasanjo's way of deflecting attention from a recent judgement of the Supreme Court that annulled the 2003 elections results in Ogun state (Ojikutu 2005, 93). Furthermore, and as events were later to prove, there was the hidden agenda of the third term for the president of the federal republic and the state governors that some observers expected the conference and its follow-up legitimization processes would advance. As Madunagu observed,

Finally, on the question of what happens to the report of the National Dialogue, I allow someone else to speak. I refer readers to Alhaji Ghali Umar Na'Abba, former Speaker of the House of Representatives: *there are certain things that the President wants out of the Confab. If such an outcome is not achieved, he will dump it.* (The Guardian March 24, 2005, 65)

In general, the conference as proposed was confronted with a number of problems, some of which were pointers to its shortcomings as a forum for dialogue on the national question. In this connection, there were those who felt that the Oputa Panel, which was set up earlier to deal with rights violation and the culture of impunity under military rule, had dealt sufficiently with the challenges of the national question in Nigeria to warrant another conference (Ehusani 2005, 10–11). In dealing with human rights violations during the period of military rule from inception, the Oputa Panel took evidence from individuals as well as groups and ethnic nationalities across the country. It is possible that a part of the field on issues bordering on the national question were covered by the panel. Its recommendations indeed touch substantially on various matters that have to do with nationhood and abuse of power and would have been very useful

in resolving these issues (The Oputa Panel Report 2005). However, the national question in its various ramifications was not its mandate. Besides, it was not set up with any view to ensuring representativeness of diverse interests and nationalities in Nigeria. It would seem a bit far-fetched to assume that the national dialogue envisaged was a mere duplication of the human rights violation panel and therefore a waste of effort and resources.

The NPRC, on the other hand, could at least claim the mandate to address the national question. But it fell short of the requirements of representativeness for such an assignment. Virtually all the members were nominated by the federal and state governments. Although interest groups and Nigerians of diaspora were allowed to nominate representatives, it was the federal government itself that determined which interest groups were qualified for this facility. The matter of representativeness took on a religious color when the Supreme Council for Islamic Affairs met and protested that Muslims were marginalized in the nominations to the conference as well as conference leadership. Blaming this on the lot that had befallen them under the Obasanjo presidency, some Islamic leaders were said to have threatened to launch a jihad if the situation was not rectified. This extreme reaction was severely criticized by many, no less by Muslims. However, President Obasanjo tried to correct the situation by nominating a Muslim scholar as joint secretary to the conference in addition to the reverend gentleman earlier appointed to the position. (The emir who was said to have spearheaded the jihad talk was later deposed in what the emir put down to political problems with Obasanjo's government.)

The conference also failed to incorporate elements of PRONACO, which had come to symbolize the idea of the sovereign national conference. Although there was supposedly an invitation to two of its prominent members, Chief Anthony Enahoro and Professor Wole Soyinka, to participate in the NPRC, they declined. Toward the end of 2005, PRONACO convened its own national conference. This was made up of representations from nationality groups in Nigeria, which were exhaustively enumerated, and civil society groups. However, the conference was plagued by financial problems. But even more critical to its outcome were generational tensions, disagreements between civil society groups and ethnic and cultural groups, and personality clashes. Given these internal dynamics, it was not surprising that the PRONACO national dialogue broke up in acrimony.

Then arose the question of the status of the NPRC; giving it a sovereign status was out of the question. The National Assembly felt that it was being circumvented in its constitutional role of making law, amending law, and deliberating on matters of any measure of importance to the Nigerian state. It reacted by refusing to appropriate funds for the conference. The House of Representatives went a step further by going to court to challenge the constitutionality of the NPRC. The initial antagonism of the National Assembly to the idea of a national dialogue might have eventually been assuaged by the prospect that the NPRC would only play the role of a forum for collecting and collating the views of Nigerians on constitutional reforms; the output would have to be placed before the National Assembly to pass any amendments.

More issues of credibility for the conference were raised when it eventually took off in May 2005. The first issue relate to placing any discussion about the national economy beyond the mandate of the conference. President Obasanjo justified this exclusion on the grounds that there was already a firm direction for reforming the economy, which his government had charted and was vigorously implementing. Implementing an externally dictated economic program and placing it beyond the ambit of national dialogue was an eloquent recall of the days of “no alternative to SAP.” It constituted a denial of the vital role the mode of the management of the economy plays in constituting and resolving the national question. To the extent that the NPRC could lay claim to be a national dialogue, placing a “no go” sign on the national economy was an unabashed disenfranchisement of the people over the management of what was supposedly their economy. More importantly, however, is the fact that it put beyond discussion issues arising from the government’s implementation of the economic policy initiatives that touched on the national question. For example, in privatizing public enterprises, how are the interests of the local communities to be protected given the tendency to view project location as evidence of government presence and patronage? When the buyer of a particular project is an “outsider,” then by this thinking, a local patrimony had been handed over to an “outsider.” This was an issue thrown up over the privatization of the Odua Group and the Benue Cement Company. In fact, it is clear that for host communities, privatization of public enterprises is seen as taking away a communal resource. Purchase by “outsiders” within the same country becomes the allocation of a local resource to an outside zone, remarkably suggestive of the “ethnicization or regionalization of privatization.” The conference

would have been an opportunity to address issues of this nature, but the “no go” sign precluded this.

There may also have been more to the conference than what was stated in convening it. This became apparent when the conference started sitting. Agents of the presidency had surreptitiously sent a draft constitution (secretly commissioned by the presidency) to a select group of conference delegates. This document was not distributed through the conference secretariat, and even when its existence became public knowledge, there was at first official denial of its existence. Then, there was a grudging admission. The general impact of this was to downgrade the confidence of the public that anything meaningful could come out of the dialogue. The impression could no longer be wished away that a dialogue convened supposedly to address vital matters of political stability and development was actually part of an elaborate design to perpetuate a personal agenda. When the recommendations of the NPRC were eventually subjected to further zonal debate for adoption, the carefully handpicked co-coordinators of the zonal forums were much less bashful and decorous about imposing a third term for President Obasanjo as part of the constitutional reforms mandated by the respective zones. The stage was set for the third-term issue to become the new political divide in Nigeria.

When the recommendations of the NPRC were eventually laid before the National Assembly, the debate on the third term for the executive overshadowed everything else. Whatever good that might have come out of the NPRC, the National Assembly had to throw out along with the third-term agenda, as it became clear that this was the real intent behind the sudden conversion of President Obasanjo to the idea of a national dialogue.

CONCLUDING COMMENTS

Restructuring the Nigerian federation to reflect the yearnings of the people for political stability, justice, peace, equity, and development has remained a perennial challenge. The quest for true federalism, self-determination, and resource control has been largely underwritten by a militancy propagated by ethnic militia groups. This expression of political instability and violence poses further security problems as their trademarks are being imitated by criminal gangs. The intermittent eruption of communal and ethno-religious violence, which are usually localized, may spread across the country if ethnic militias pull automatic retaliatory triggers across the land. The national question then remains a fundamental challenge.

It is apparent from the analysis that restructuring must embody procedural and substantive issues. Procedurally, it is difficult for the minority to put their concerns on the agenda, much less have them adopted, in a situation where the decisions will be taken based on majoritarian principles. This, perhaps, is the major reason why the Niger Delta issue is escalating, in spite of the series of measures that have been adopted at the federal level. There is the need for serious rethinking on this.

The substantive challenges on the national question are fairly well defined. Most of them are reflection of a center that has grown too strong and authoritarian. Unfortunately, these two qualities have not been in short supply since 1999 in the Nigerian state. It would appear, therefore, that while the quest for restructuring of the federation goes on, alternative modes of checks on the unconstitutional aggrandizement of power should be closely examined, explored, and utilized. The Nigerian judiciary has shown that the executive has a penchant to claim and exercise powers not provided in the constitution. The timidity of state governments has allowed this to flourish. States that have been willing to challenge the federal government on the constitutional division of powers have been able to show that there is a lot of leeway through the judiciary to prevent the construction of a federal system outside the provisions of the constitution.

POLICY RECOMMENDATIONS

There is an inherent tendency on the part of the central government to concentrate powers in itself in breach of constitutional provisions on the division of powers. The courts have displayed a remarkable willingness to draw the appropriate boundaries when called upon to do so, but states have generally been unwilling to mount the necessary judicial challenge to test the limits of federal powers. The states should not hesitate to use the judiciary to protect their constitutional spheres against authoritarian central encroachment.

The issue of resource control must be tackled decisively. The apparent contradiction between the current direction of economic policy (capitalism/privatization) and the continued socialization (state ownership of land and natural resources contained therein) must be resolved. In other words, there is need to align the laws dealing with land socialization with the economic and ideological thrust of the

Nigerian state. This would imply the abrogation of all those laws that have alienated land and resources from local communities, especially in the Niger Delta region.

Privatization, if it must be carried out, must not lose touch with the federal character principle. The sale of public assets must take cognizance of the important element of creating room for some degree of ownership within the locality or community in which enterprises are located.

Tax and residential requirements should be stipulated for the exercise of rights and entitlements of citizenship across the country. In specific terms, no person who has paid tax in a particular state for three or more consecutive years should be denied access to social services such as education or health on equal terms as "indigenes." The right to run for elected office should be based on a residential requirement of five years. In fact, so-called non-indigenes should be given definite representation in state executive councils.

Rotation of public offices should normally not be critical to the enhancement of welfare and the "delivery of development." However, it is apparent that at this stage of national development, it is crucial in creating a sense of belonging. It should therefore be well defined and modalities of its implementation streamlined. In the alternative, a collective presidency in which various constitutionally defined groups are represented should be given serious consideration. The headship of state should then be rotated among members of this group for a defined period (six months, for example). This will help to reduce the enormous powers vested in individuals currently and also ensure wide representation in the exercise of executive powers by various groups.

A national conference, backed by a proper enabling law, and with uninhibited terms of reference, remains essential as a major component of our recommendation on restructuring the Nigerian Federation. The 2005 national dialogue was seriously compromised by its hidden agenda. Besides, the notice was too short for serious pre-conference consultations. The relationship between the forum's output and other organs of government were not properly spelled out before it was convened; the mode of conference delegate selection was seriously flawed, and a whole class of civil society and nationality activists were excluded in that exercise. These are loopholes that any new effort must plug in order to command legitimacy as an acceptable path of restructuring.

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Whose Catalyst? Party Politics and Democracy in the Fourth Republic: From Theory to Denial

Adigun Agbaje

Owen: ... [W]e are taking place names that are riddled with confusion and...

Yolland: Who's confused? Are the people confused?

Owen: And we are standardising those names as accurately and as sensitively as we can.

Yolland: Something is being eroded.

—*Conversation, in Scott, 1998, p. vi*

[F]ormal schemes of order are untenable without some elements of the practical knowledge that they tend to dismiss.

—*Scott, 1998, p. 7*

In many countries, formalization has not produced predictable systemic conditions at any level... Consequences deviate from predictions, and hindsight offers a clarity that foresight does not.

—*Guyer, Denzer, and Agbaje, 2002, p. xvii*

These state simplifications, the basic givens of modern statecraft, were, I began to realize, rather like abridged maps. They did not successfully represent the actual activity of the society they depicted, nor were they intended to; they represented only that slice of it that interested the official observer. They were, moreover,

not just maps. Rather, they were maps that, when allied with state power, would enable much of the reality they depicted to be remade.

—Scott, 1998, p. 3

INTRODUCTION: LIVING IN DENIAL OF ENVIRONMENT

“Refashioned by State Maps of Legibility”¹

Dateline: A city in southwestern Nigeria. A chief executive of a leading private sector organization is in the midst of friends, expressing his apprehension over the outcome of recent local elections, as well as governorship election re-runs in 2008 following judicial decisions annulling those held in 2007. He is worried that the new elections are even worse than the cancelled 2007 and pre-2007 elections (see also *The Nation*, 2008, 13). In his words, “we now have predetermined results without elections actually taking place.” His friends laugh over this statement, but they are equally worried by its import.

Can outcome actually precede process? Is it possible to produce election results without elections taking place? Ordinarily, the answer to these questions is a resounding “no.” It flies in the face of reason, common sense, intuition, and science to suggest that output can precede input. However, if it were possible to simulate/manufacture input and process to fit a predetermined outcome, and get away with this manufacturing of “synthetic reality,” then the matter becomes more complex, and the answer can then be *yes*, you can have election results without actually holding elections in the real sense of the substantive requirements of the electoral process.

Increasingly, informed Nigerians and students of Nigerian politics and governance at home and abroad are daily confronted with the startling possibility that much of the country’s recent and current history has been manufactured to ensure a triumph of form over content and a separation of lived reality from reported reality. In effect, the Nigerian elite appear to have perfected the idea and practice of a life lived in denial at the level of official/public discourse, attempting to hegemonically foist the practice of lying in state and political society (and, increasingly, even in civil society?) on the Nigerian polity.

I suggest in this chapter, whose major focus is not to repeat tales already told several times over, that the background to party politics in Nigeria’s putative Fourth Republic (1999 to the present) has been

largely informed by a comprehensive elite agenda aimed at entrenching a political culture of subterfuge that empties language, institutions, and practice of their ordinary, taken-for-granted meaning and substance. Next, this agenda proactively seeks to recompose and then control meaning and collective memories as a prelude to controlling the Nigerian socio-political and cultural space and, ultimately, the Nigerian people to make them pliant, or at least reluctant, instruments in the service of undemocratic rule masquerading as democratic transition and consolidation.

To be sure, these tendencies predate the Fourth Republic and can be traced to the latter part of the First Republic in the 1960s and developments since then, including long periods of military rule broken by relatively shorter periods of civilian (often as undemocratic as military) rule. As I have argued elsewhere (Agbaje 2004, 204), in the countdown to the Fourth Republic Nigeria faced, and I dare add continues to face,

an experience deficit in those core areas that are traditionally held up as defining its aspirations and *raison d'être* and guaranteeing its future ... (such) as democracy, development, and federalism, and this lack of experience poses the primary challenge to Nigerians and their leaders. The challenge is made all the more daunting by the complex interconnectedness of democracy, development, and federalism for a resource-rich country of such big size and diversity as Nigeria.

As I warned then, and as I would insist is still the case, “Nigeria remains a state of aspirations unmatched by reality” (Agbaje 2004, 203). Since before independence in 1960, aspirations have been widely and historically “in favour of a federal system of government,” but for much of the period after the collapse of the First Republic, in essence the country has operated only a nominally federal system. In practice, it has operated more or less a unitary system with a strong center, no thanks to long periods of military rule (1966–1975, 1983–1999) and undemocratic dispositions of civilian rulers (1960–1966, 1979–1983, 1999 to the present). In the same vein, the balance of aspirations against undemocratic rule over the period has yielded meaningful democracy for only a couple of years while official and micro-level commitment to a developmental state has “not meaningfully transformed the Nigerian economy from one obsessed with consumption, rent-seeking, and neo-patrimonial practice to one concerned with production and capacity building for long-term development” (Agbaje 2004, 203–204).

In other words, and for emphasis, the Nigerian elite (economic, socio-cultural, political, and intellectual) live a life of denial and seek literally to infect the populace with this denial virus. They usually consider the lives of tens of millions of their (ordinary) compatriots as insignificant. They even describe their country as a federal democratic republic when, in actual fact, the country has not been federal or democratic or even a republic for a long time. Consider, for instance, the contradiction of describing governments under years of military rule as “federal military” governments, as if one really could have a federal system of governance under the military with its centralizing tendencies. Such contradiction between label and substance persists even under civilian governance when people describe governments and society as democratic even when faced with daily evidence of the chicanery of civilian autocrats who have the same disregard for due process and rule of law as their military counterparts, just not the same dress code. In addition, it is common knowledge that even under civilian governments leaders tend to be recruited from among a small band of the anointed, rather than through meaningful electoral competition (Agbaje 2008, 2–3).

Of course, the fact cannot be denied that, over the decades, the forces and voices against the consolidation of undemocratic rule have engaged dictatorship in a war of attrition, so to speak, and in each instance such forces and voices have ultimately triumphed, at least in the short run. Wars of attrition are, however, notorious for the damage they unleash on all combatants, and while the political space has been opening up slowly but surely over the decades and even more so since 1999, the question of which side—the more democratic side or the less democratic side—has been more active in filling that space in terms of numbers and resources is mostly unclear.

It is not surprising, therefore, that the central argument of this chapter is that to begin to discuss the issue of political parties as a catalyst for sustainable democracy in Nigeria’s Fourth Republic is to contribute to ongoing discourse in false consciousness and strengthen further the culture and practice of denial that are beginning to pose a major threat to the meaningful realization of Nigeria’s aspirations for democracy, development, and federalism with peace. For we have in Nigeria at the present time neither political parties nor a democratic dispensation fitting proper definitions. The challenge, therefore, is to examine the extent to which those contraptions currently called political parties have become a stumbling block to the transition to democracy and determine what needs to be done to purge them of their antidemocratic essences as we look beyond their democratic

pretensions. In their present form, it is argued, the so-called political parties are, in fact, actively serving as catalysts for the consolidation of antidemocratic tendencies and structures in Nigeria, thereby serving as undertakers for whatever has been achieved in terms of the march toward meaningful democracy.

All this poses a challenge to the methods and practices of the humanities and social sciences, and political science in particular, in contexts such as the one that has been witnessed in Nigeria. As the prefatory notes above suggest, there is an urgent need to bring context, the local condition, and the people back into discourses of the meaning of structures and processes in a manner that enlists and nurtures the positive, humanistic, and universal aspirations at the heart of the proper definitions of those structures and processes. At the same time, such concern over context, locality, and the people should also consider variabilities (positive and negative) in meaning arising from specifics of history and place and not impose rigidity on concepts that define structures and processes.

As has become increasingly clear, whoever controls the definition of a situation controls meaning,² influences memory, and is in a position to seek to control space and other resources and, ultimately, the people themselves. If, as social scientists, our epistemology and the ways in which we conduct research do not fully reflect and address these issues, we may end up as hegemonic instruments (Reno 2005; Marenin 1981) for the perpetuation of some measure of untruth, as in this case on the potential of the party system in Nigeria, or the democratic credentials of the country's political structures and processes.

Do the people matter? In counter-hegemonic fashion, the prefatory notes above pose this question, germane to the central argument in this chapter, and provide an answer in the affirmative, to which I subscribe. A major resource largely ignored by much of the social sciences and the humanities (with intradisciplinary exceptions, of course, along with the singular and consistent exception of anthropology) in the attempt to fully understand the local condition, in order to seek to transform that condition for the better, is the everyday life of ordinary folk. We have for long considered the banal (Garnett 2007) as a burden in our efforts to understand our societies, but we must now fully join others (see Scott 1998, 1985; Wright 1995; Bush 2000; Barnes 1986; Guyer, Denzer, and Agbaje 2002) to recognize that within the banal are insights that are indispensable to the engineering of progress—or of retrogression. We need to join de Certeau in applauding the creativity, for good or ill, potential and/or real, in the practice of everyday life by the “marginal majority”

(Guyer 2002, ix, xii–xiii). The trite, commonplace details of everyday life provide a major key to human progress and transformation when properly examined and evaluated. In the alternative, they pass unnoticed as dull footnotes to the story of human history, or they serve as malleable instruments of control through the popularization of false consciousness in the hands of the elite, or as mere epiphenomenal ephemerals. Worse still, they may become accomplices to evil designs or active agents in an architecture of mass destruction.

Take, for instance, the everyday ritual of affluence. On one hand, it could serve to motivate the poor to seek to better their lot. On the other hand, it could encourage a pattern of consumption among poor and rich alike that is toxic to the health and political economy of individuals, groups, and the nation, or it could encourage corruption and criminalization of state and society.

In the same vein, the balance of the banalities of power, identity, and spirituality can serve to explain differential outcomes among communities, countries, and continents in the areas of democracy, development, and peace. Surely, communities in which everyday usage of political parties and power at local and national levels emphasizes divisive identities would find it difficult to sustain the level of peace and stability required for the minimum conditions of human existence, not to mention progress. The same goes for a community in which spirituality underwrites dictatorship, corruption, or mass passivity.

Perhaps the worst form is what philosopher Hannah Arendt (Arendt 1963, 1964), describes as the *banality of evil*. In coining that phrase, Arendt puts forward the important argument that some of the greatest evils in human history, including the holocaust, are executed not by fanatics or sociopaths but by ordinary, normal people who accept the premises of their state and, therefore, willingly and enthusiastically participate in such enterprises believing that there is absolutely nothing wrong in their actions. Witness the pre-civil-war pogroms and the various religious/communal conflicts in Nigeria, the genocides in Rwanda, Kosovo, Sudan, and so on and so on.

It is in this context that the culture of denial, a decidedly global phenomenon (see Baum and Burnes 1993; Bush 2000; Harrison and Huntington 2000; USA Today 2007a; USA Today 2007b; Wright 1995), plays a decisive role in our lives. Denial involves seeking to ignore or refusing to believe an unpleasant reality, deriving in fact from a desire to pretend that all is well. Denial expresses itself on a continuum that runs from simply refuting fact to rationalizing, to intellectualizing, to generalizing, to blaming, to passivity, and finally to outright hostility. Cover-up is universal, the norm not only among

the practitioners of power but also among the minions at the receiving end of state chicanery. According to relevant literature, it generally manifests in the following manner: the silent majority remain just that—silent. Then, those who speak are not heeded. Those who hear do not listen. Those who listen do not act. And, I dare add, those who know and speak and act all the time, by the evidence of their paucity and the deafening silence that otherwise surrounds them, are easily labeled nattering nabobs of negativism (apologies to the late Ukpabi Asika) swallowed by the depths of hysteria beyond the fringes well into the core of insanity.

FOOTPRINTS OF FAILURE: GLOBAL EXPECTATIONS AND AFRICAN PECULIARITIES

This chapter has so far suggested that what passes for the party system in Nigeria's Fourth Republic has been fashioned in a manner that it can neither deliver nor sustain a viable political process, not to mention democracy. The rest of this chapter provides signposts of the journey that has over the decades taken Nigeria farther away from the declared goal (see Federal Republic of Nigeria 1997, Chapters 1–7) of democracy and development within a viable political order down the dark and tortuous path of undemocratic precepts and practice on to the stark reality, even if cloaked in denial, of an uncertain, largely oppressive, and bumpy political environment not conducive to a democratic future.

To be sure, the contraptions called political parties in the republic are largely unworthy of that label. They meet neither the conditions set by universal principles and practices nor the expectations and aspirations of the local environment to qualify to be called parties.

In the context of liberal democratic theory and practice around the world, the electoral process/system provides the mechanism for ensuring that democracy and the government it produces is representative of all the interests in the polity. In its role of guarantor of the inclusiveness of the political and governmental processes and institutions, the key instrument of the electoral process is generally the accompanying party system and the nature and structure of political parties therein. Thus conceived, an open and competitive party system situated within an equally open electoral system is a *sine qua non* for the construction and consolidation of democracy.

In this conceptualization, it is expected at the least that a given electoral process and its party system would facilitate open, transparent, and competitive leadership succession in the polity by guaranteeing

an open arena for political contention in which there is full participation of citizens in the determination of the constituents, personnel, and conduct of governance (Agbaje and Adejumo 2006, 26). Thus, political parties are seen as providing “a peaceful means of controlling the policy-making structures of government” and offering “differences in views and policy priorities,” since it is through parties that “issues can be identified and preferences indicated by the electorate” (ECA 2005, 38).

Even in the narrower context of the African experience, it is affirmed that “electoral competition is conducted in most countries through political parties, which are a pillar of representative democracy” (ECA 2005, 38). Thus, while electoral competition can occur without political parties, the same cannot be said of a liberal (representative) democratic dispensation. As indicated earlier, therefore, the key to an understanding of the vitality and stability of any experiment in democracy is to be found in the origin, number, nature, and structure of political parties (ECA 2005, 38):

As such, it is important to understand how political parties are formed, the rules or procedure of their registration, their internal organisation (whether they afford open political participation to their members through democratic processes), their social base and inclusiveness (whether they reflect the diversity of society) and the extent to which there is a level playing field for all parties in terms of access to electoral resources such as the media, funding and freedom to operate without intimidation. These issues determine how well parties are institutionalised and whether a genuine multiparty democracy exists in a country.

It is important to dwell a little more on the reality of the evolving African situation in order to better appreciate Nigeria’s Fourth Republic. In a very important essay on “the contradictions and ironies of elections in Africa,” Ninsin (2006, 1–10) argues that, on the continent,

in contrast to the popular meaning of elections as a struggle for liberation from the harsh economic and social conditions which have become their daily experience—a struggle for citizenship—the political class has reduced elections to an intraclass contest to exercise legitimate state power based on the consent of the people expressed through free and fair elections. They have ingenuously developed mechanisms for appropriating it to advance their long-standing project of political and economic domination of the majority. (2006, 3)

Enter the mass of the people, the so-called mass-based parties and, in a very significant sense, even the political elite who preside over this unsustainable and self-defeating scheme in the long term to shut out the people from the political process while at the same time draining such key institutions as political parties of much of their democratic intent and content, as victim, (willing and/or unwilling) accomplice, and perpetrator. As Ninsin's perceptive essay has noted, given the fact that "even under current liberal regimes, the state controls enormous economic resources for social distribution" in Africa (Ninsin 2006, 3), it is not surprising that elections tend to be perceived by the elite and the multitude alike less as involving the affirmation of civil and political rights and more as bread-and butter issues, as instruments for securing "food security, the assurance of a stable and reasonable income, access to health and education, as well as other economic and social services and factors" for individuals, communities, groups, or regions (Ninsin 2006, 3).

Beyond this discussion of elections and party contestations in the context of the pursuit of citizenship in the African context, Ninsin goes on to point out the contradictions and ironies arising from the conceptualization of elections and matters relating thereto as involving the sovereign choice of the people. He addresses the issue of the fictiveness of such perception in the African terrain, constrained as it is by the reality of "choiceless elections" (Ninsin 2006, 4–9; Rose 1978, 196–212, Mkandawire 1999, 122–30; Agbaje and Adejumobi 2006, 25–44). The limits of institutional and citizen rationality and freedom in the context of manipulations of symbols and memories of identities (ethnic, religious, spatial, gender, class, power) are emphasized in this regard, resulting in such extremes as the Nigerian case of the rigging of party and electoral processes and structures through strategies including "manipulation, falsification, control, intimidation," lying in/by the state and outside of the state as a matter of institutional policy, bribery, and the use and/or threat of violence by government and opposition alike (Ninsin, 2006, 6; Agbaje and Adejumobi, 2006, 25–44).

FOOTPRINTS OF FAILURE: THE NIGERIAN EXPERIENCE

So far, it has been suggested that the political parties of the Fourth Republic were bred to be agents of democratic erosion and collapse, rather than strong ramparts for the construction and consolidation of democracy. Before I proceed to analyze, rather than just describe,

how Nigeria came to be in this sorry circumstance, so to speak, it is important to restate that the road that led us here (to the Fourth Republic) was a long one, stretching back many decades, to the colonial era.

Elsewhere,³ I have detailed what I consider to be four stages in the development (or is it underdevelopment?) of Nigeria's putative party system in the (literally) hundred-year period preceding the beginning of the Fourth Republic in 1999. These include the stages listed below.

(a) **Cautious engagement of the educated local elite with the colonial state (up to 1921–22):** Key actors during this period from the late 19th century included returning former slaves with some experience of British and American life (mainly Nigerians but including those originally taken into slavery from such West African territories as what became known as Ghana, Sierra Leone, Gambia, and Liberia, among others), and an expanding group of Nigerians educated abroad, complemented by those educated largely in missionary-sponsored schools in Nigeria. Broadly speaking, these constituted the emerging educated elite largely concentrated around Lagos and environs. They were generally discriminated against by the colonial power and largely excluded from the middle to upper echelons of the colonial bureaucracy. The period witnessed some organizing by the emerging elite for the purpose of cautiously engaging the colonial regime on such local matters as discrimination and exclusion from the colonial enterprise. Understandably, the period witnessed the formation of civic and political associations around the interests and personalities of the educated elite and professionals in a few urban centers. The focus was mainly on such local issues as mutual aid, housing and education, colonial maladministration and colonial insensitivities to local customary practices, land matters, and tax.

(b) **Limited franchise and emergence of restricted electoral process (1923–1947):** The introduction of a restricted form of franchise in Lagos and Calabar under colonial rule by the 1922 Clifford Constitution enabled residents in these two cities who had the required property qualifications (very stiff for the period) to vote and be voted for. "Residents" in this context were defined not only by property qualifications and an urban residency but also broadly as including not only Nigerians but other members of the British Commonwealth resident in Lagos or Calabar. Those so qualified were to vote and be voted for with reference to four seats (three for Lagos, one for Calabar) in the largely advisory colonial Legislative Council otherwise made up mainly of appointed colonial officials.

The dominant party during this stage, formed and organized largely around the engineer/agitator, Herbert Macauley, and his associates was the Nigerian National Democratic Party (NNDP). By 1938, however, the Nigerian Youth Movement (NYM), more elitist than the NNDP and focused more on fighting colonial policy against overseas scholarships for Nigerians, captured the three Lagos seats in the Legislative Council. The year 1944 witnessed the birth of the National Council of Nigeria and the Cameroons (later, National Council of Nigerian Citizens), which wrested Lagos from NYM and appealed more vigorously to the Lagos working class. The NCNC emerged from the NYM as a result of business and personal rivalries among the leadership of the NYM. For obvious reasons, the parties of this period were urban-based, largely elite-centered, organized around individuals, and concerned mainly with expanding the opportunities for engagement of the local elite with the colonial enterprise.

(c) **Emergence of mass-based parties (1954–1966):** This period marked the emergence of political parties that generally declared their intentions to be national but had differing levels of success in national coverage, if not in outlook. The impetus for this phase, as with others, was given by colonial policy, now pledged to grant independence to Nigeria. As a result, a more adversarial political landscape emerged, along with the possibilities of more broad-based politicking, thanks in part to a more liberal definition of the franchise countrywide, and the granting of more and more political and executive powers to the local political elite. Simultaneously, however, a federal system of government was adopted for the soon-to-be-independent country, fueling tendencies of ethno-spatial politics that, as indicated above, posed a major obstacle to aspirations of the emerging parties for national spread, focus, or outlook.

The dominant parties of this period until the collapse of the First Republic as a result of the military coup of January 1966 were, as before, largely founded and/or eventually organized around key individuals and, this time, became associated with particular ethno-regional interests by design or default. Without going into too much detail, it is important to emphasize four key points in regard to the political parties of this period (Agbaje 1997, 372–373): First, the coincidence of the parties with strong personalities who combined “party leadership with leadership of ethnic, religious, regional and media empires” worked to accentuate “the spilling over into civil society of issues and crises in political society and vice-versa” (Agbaje 1997, 372).

Second, the composition of party membership, often also overwhelmingly ethno-regional, militated against the emergence of broad-based, cross-cleavage party structures of a national character.

Third, and as a consequence, the more the party system sought to execute the democratic project of pursuing group interests, the higher the risk of deepening channels of mobilization and interest articulation and aggregation that were too narrow to support democracy (Agbaje 1997, 372), violating a basic principle to the effect that

a stable democracy requires a situation in which the major political parties include supporters from many segments of the population. A system in which the support of different parties corresponds too closely to basic social divisions cannot continue to operate on a democratic basis, for it reflects a state of conflict so intense and clear-cut as to rule out compromise. (Joseph 1987, 25)

Fourth, and on a positive note, helping to guarantee “considerable room for self-expression and the assertion of group interest” was and still is the absence of an authoritarian hegemonic party system. This, in the period under review, fed (and is still feeding on and accentuating) the evolving structure of ethnic relations, described by Horowitz (1985, 39) as one in which a few groups are “so large that their interactions are a constant theme of politics at the centre.” All this made it difficult for authoritarian rule to be sustained in the medium to long term by “making the kind of consensus conducive to the long-term consolidation of authoritarianism difficult to achieve” (Agbaje 1997, 373). These tendencies, expressed through the parties of the period, eventually led to the collapse of the First Republic.

(d) Interrupted party development through alternation of military and civil rule (1966–1999): Although political parties were among the first casualties of the 1966 coup, which banned parties and threw most of the party leaders that survived the coup into detention, much of the nature and structure of the party system in the succeeding Second Republic (1979–1983) and the aborted transition to the Third Republic (in the late 1980s up to 1993) was influenced by tendencies from the pre-1966 era, compounded by the nature and agenda of the military government in office in the period under consideration. Again, political parties contributed significantly to the collapse of the Second Republic (in 1983, following tendencies toward a one-party state and controversies surrounding the 1983 elections) and became willing tools against

democratic resurgence under the military rulers in the late 1980s up to 1998. Thus the parties provided the necessary background to prolonged military rule and the truncating of the transition to the Third Republic in 1993, ending only with the inauguration of the Fourth Republic in 1999.

Again, let's briefly highlight the salient points introduced or accentuated by party politics during this period. First, the role of money in politics became significantly enhanced. The electorate began to seek pre-electoral gratification, while party members began to de-emphasize the routine discharge of their financial responsibility to their parties in the form of party dues. Second, parties of the period were seen, rightly or wrongly, as reincarnations of parties of the First Republic, with implications for political memory in terms of ethno-regional, religious, and even personal animosities carried over from the past.

Third, there was a set of factors that marked out the experience of party politics under military rule from such experience in the colonial and pre-military rule periods. The sheer fact of disruption of the evolution of political parties following every announcement of a military coup robbed the party system of the time and space to garner required knowledge and experience in the peaceful negotiation of relationships within and between parties and "to engage in the routinization and institutionalization required of a democratic order" (Agbaje 1997, 375). Rather, what was encouraged was a commandist, militaristic political culture characterized by a disdain for intraparty and inter-party dissent and that permitted the worst dimensions of personal allegiances and de-institutionalization in the guise of enforcing party discipline.

To be sure, the long periods in which political parties were banned under military rule did not in fact stop partisan political activities; rather, such activities were driven underground, with the consequence that long-standing party political networks were in fact perpetuated, rather than disrupted, under the military. The result was that whenever such bans were lifted in the context of a planned transition from military to civil rule, the political parties that subsequently emerged were new only in name and were essentially a reincarnation of those banned. Not even when military president Ibrahim Babangida took the drastic step of creating two political parties for the aborted Third Republic and first banned, and later unbanned, politicians of the previous republics from party membership in the Third Republic, was this pattern meaningfully disrupted. The pattern was reinforced by the network of patronage and patron-client relations witnessed under

military rule, which tended to favor long-standing, rather than new, politicians (see Diamond 1995; Joseph 1987; Barnes 1986; Agbaje 2002, 2004).

In addition, the highly centralized manner in which Nigeria's previously decentralized federation of the First Republic was operated during the prolonged periods of military rule (1966–1975; 1983–1999) effectively turned the federal state into a unitary one, federal only in name. This had an impact on the party system also, making it top-heavy and centralized with little regard for grassroots considerations, each party drawing succor mainly from access to government resources and patronage proportional to the number of governments and moneyed members it controlled. The net effect was a neopatrimonial regime, with dire consequences at central and state (and even local) government levels for transparency in general and for oppositional elements in the party system and even in civil society.

In the specific case of the experience under General Babangida (1985–1993) and General Sani Abacha (1993–1998), political parties were created, nurtured, and manipulated to suit the political aspirations of the military rulers. Attempts were equally made to, in fact, reconstitute even civil society to make it less oppositional to the designs of the two for self-perpetuation, designs that ultimately were frustrated by oppositional elements within both political and civil society. What was thereby frustrated was a thoroughgoing “two-headed project of de-democratisation” in which these military rulers used

the promises, imagery and appearances of democratisation to de-institutionalise, weaken and cripple democratic processes and structures, while at the same time institutionalising and invigorating a thoroughgoing system of cooptive rule. (Agbaje 1997, 578)

In effect, this accentuated tendencies witnessed from the latter part of the First Republic to gradually but surely turn institutions of oversight in political and civil society such as electoral commissions, the police (and even the army), and the mass media into willing or unwilling instruments of partisan political warfare. Nonetheless, it is important to end this review of the period (1966–1979; 1983–1999) by indicating that one of its redeeming features was that, despite the stultifying context of the era, there was an incremental broadening of the base of the party system from the First to the Second and Third Republics and beyond (Diamond, 1995, 432–433; 452–458).

Diamond (1995, 433, 452–454) makes this fine but important point that each of the parties of the Second and aborted Third Republics was in fact “broader than its supposed antecedents,” thereby suggesting that the parties could have evolved into more inclusive entities if military meddlesomeness and unconstitutional disruptions of the political order had not robbed them of the time and space to negotiate and reconstruct terms of engagement within and among themselves, and with civil society and the state, along democratic lines.

All this provided the background to the emergence of the Fourth Republic (1999 to the present) and its political parties. The republic was inaugurated following local and general elections for which three political parties, namely the Peoples Democratic Party (PDP), the All Peoples Party (APP), later known as the All Nigeria Peoples Party (ANPP) and the Alliance for Democracy (AD) were registered by the electoral commission and allowed to sponsor candidates for the elections.

The character of these parties reflects historical and contemporary realities. The first reality is the heavy influence of the state and the politics of the period of transition, including the overbearing role of the electoral commission. In this regard, it is important to note that before the transition to the Second Republic, it was not required that organizations seeking to compete in elections as political parties be registered and licensed by the state institution in charge of election administration. It was in the context of transition from military to civil rule that registration and licensing provisions were introduced in 1978 and retained for the transition elections to the Third and Fourth Republics and beyond (Agbaje, Akande, and Ojo, 2007).

The 1999 Constitution empowers the Independent National Electoral Commission (INEC) to register political parties in Section 15(6) of its Third Schedule, with sections 221–229 spelling out in detail the methodology for party formation, funding, and accountability procedures. In addition, Part V of the 2006 Electoral Art (sections 78–105) further amplifies these provisions, considered to be very stringent by informed observers. The result: the major and first-to-be-registered parties of the Fourth Republic were those “big” in terms of membership by very rich Nigerians and nationwide administrative, not necessarily grassroots, presence. In effect, the major force in party formation for the republic (Agbaje, Akande, and Ojo, 2007) has, therefore, not been the aggregation of people with similar ideologies or interests but the establishment

of ethnic coalitions led by regional barons with strong financial backing.

A succinct description of the countdown to, and party politics in, the republic (Ibrahim 2006, 7) adds that, for the period,

Nigerian political parties were conceived to be cohesive, national bourgeois parties...[T]he aim or political project of most Nigerian parties has been the development of a national system for sharing out the 'national cake' as a system of patronage. This is why the parties are established as coalitions of various factions of regional and economic rent-seekers. Most party leaders see their political party activity as a means to further their business interest.

The tenor of the evolving party system does reflect redeeming features, further accentuated by challenges during the republic to the restrictive conditions for party creation and registration. For one, the Nigerian elite were able to voice consensus on the need to ensure that the first elected president of the Fourth Republic would come from the southwestern part of the country, widely believed to have produced the winner of the 1993 presidential election—Chief M. K. O. Abiola—which was annulled by the incumbent military government headed by General Babangida, a northerner. The extent to which this consensus was openly arrived at or imposed by a clique, however, remains a subject of debate, perhaps favoring the clique thesis. Evidence: the ease with which ex-military Head of State (1976–1979) General Olusegun Obasanjo, a Yoruba, recently released from jail to which he had been confined by (another northern) military Head of State Sani Abacha (1993–1998), was anointed to run for president of the Fourth Republic under the platform of the PDP by a clique dominated by retired military generals, including General Babangida and politicians from previous republics, despite Obasanjo's failure to register support among the generality of the Yoruba of the southwest.

To be sure, the downside to such elite consensus on the need for a Yoruba-southwest president to emerge from the inaugural elections of the Fourth Republic, as it were, was that it re-emphasized ethno-regional factors in the republic's political calculus and, perhaps unjustly, led to key parties of the period being perceived as being dominated by regional interests. Thus, the PDP was perceived in certain political circles as being dominated by northerners and the APP (later ANPP) by southeastern (core Igbo) interests. In

fact, however, only the AD could be said to be so dominated (by southwestern, core Yoruba interests). This perception did not fully acknowledge the second redeeming feature of the evolving parties, namely their origins as opposition groups to the perpetuation of military rule. To a large extent, these three parties emerged from and were founded by those members of the political elite who in the years of the Abacha military regime (1993–1998), and especially so in the last year or so of that regime, amounted to a virile opposition to prolonged military rule and often worked in concert with, or even as elements in, civil society to bring military rule to an end. Such elements were located in the National Democratic Coalition (NADECO), mainly from the west; the G18, comprising eminent politicians from the north; and a group of 14 eminent southern politicians led by former (Second Republic) Vice President Alex Ekwueme from the east. The latter two subsequently came together to form the G34, concealing their political motives by adopting the name “Institute of Civil Society”—a platform from which they reinvigorated opposition to General Abacha in the last year of his military dictatorship at a point when the general appeared unchallengeable in his bid for self-succession through the manipulation of the electoral process.

A third major redeeming feature of the Fourth Republic has been the restraining and balancing role of the Supreme Court. The court has worked assiduously to stabilize the polity through its rulings on such issues as party registration, intergovernmental relations and powers, and election processes and outcomes. Of immediate concern here was its role in defining the requirements and processes of party recognition and registration in a manner that allowed for a more open party political platform for Nigerians and freed “the political space for new political party registration” (Agbaje and Adejumobi 2006, 34) through a landmark judgment in October 2002. The result has been that, between 1999 and now, the number of recognized political parties has grown from three to 50 (see Table 3.1), with still more expected to come. That development has brought onto the terrain a set of problems, compounding those already in existence before the liberalization of party registration.

Symptomatic of the troubled nature of the party system is the fact that virtually all the elections in the republic so far (local and general) have been hotly contested and widely perceived as having been neither free, nor fair, nor voter-friendly. As Senator Jubril Aminu, a key player, put it in 2003 (reported in Agbaje and Adejumobi 2006, 40),

This business about the “man on the street”... does not really feature too much in these things... This has to wait until after three or four or five elections. When the man in the street becomes the centre, then democracy will be assured. Right now, what seems to happen is that so long as the big political barons and baronesses can agree at the top, that’s it.

A very apt summary of experience in the Fourth Republic is to be found in the abstract of the contribution of Agbaje and Adejumobi (2006, 25–44) to the special issue of *Africa Development* on “Electoral Politics in Africa” (Ninsin, ed. 2006, i–iv, 1–92), and it is here quoted at length:

Nigeria has suffered from both institutional...and experiential deficits in regard of required ramparts for electoral politics conducive to democratic renewal and consolidation. Organisations have been bereft of values required for turning them into effective institutions while dominant values have been toxic to democratic politicking...[T]he nature of political leadership, its shortsightedness as well as its lack of commitment to and experience in the democratic management of diversity in the context of restrained governance, have devalued politics and elections..., reducing the latter literally to an instrument of warfare by other means. Electoral merchants or better still political barons have hijacked the electoral process marginalizing the people, discountenancing their votes and choices and steadily sliding the fourth republic on the path of systemic collapse.

How has all this been reflected in and affected by specific aspects of party political structures, process, actors, and outcomes? First, the triumph of crude hegemonic politics over democratic politics (Agbaje and Adejumobi, 2006, 30) has bred a commandist and exclusionary approach (CDD 2003, 3) to party structure, administration, and processes ably described by Fourth Republic vice president and former PDP chieftain, Atiku Abubakar thus (in Agbaje and Adejumobi 2006, 30):

...[D]ecades of military and authoritarian rule...[have] left deep imprints in our political culture. Consequently, our political elite have become used to centralization, concentration and personalization of political power, the central defining elements of modern despotism. The consolidation of democracy, however, requires the institutionalization of political power in which due process and rules and regulations replace the exercise of personal power.

One consequence of the deinstitutionalization attendant to personalization of party political frames is an inchoate, unstable process bereft of commitment to the mass of the people and to ideals higher than crass pursuit of power and its perquisites first for self and perhaps also for cronies (Lewis 2003, 134):

The nebulous party system has little to do with any distinct ideologies, strategies, or sectional appeals. The major parties are relatively diverse in their leadership and constituencies, but remain focused on elite contention and patronage. Ethnicity is still a crucial vehicle for political mobilization. Personalities and clientelist networks predominate; internal discipline is weak; internecine battles are common. Politics is 'winner-takes-all' because public office is still a high road to personal enrichment by dubious means.

As indicated above, the lack of internal democracy, for which previous republics were noted, has persisted within the parties of the Fourth Republic. Even the Independent National Electoral Commission (INEC) has this to say in its report on the 2007 elections (INEC 2007, 91):

INEC observed, much to its dismay, that Nigeria's political parties lacked basic liberal and internal mechanisms that could sustain a vibrant and fast-growing democratic culture... [L]eaders of these parties chose to run them as though they were closed shops, with no respect for their parties' constitutions on election of party leadership and selection of candidates for the elections... [T]he political parties exhibited disdain for rules and regulations that governed the process of nomination.

A popular rhetorical question that has been thrown up in the republic against this background is: Can a party give what it does not have? Can undemocratic parties deliver or preside over democratic construction, not to talk of consolidation? Former Vice President Abubakar (in Agbaje and Adejumobi 2006, 36) has this to say on the implications of lack of internal democracy in the parties:

An essential element in promoting free and fair elections in the country is the free and fair conduct of party nominations. *Most elections are 'rigged' before they occur because candidates are eliminated through various methods.*⁴ These include subverting party constitution and rules, the use of thugs, corrupting party officials to disqualify, or annul the

nomination of some candidates and other illegal methods of distorting the wishes of the electorate.

In a pointed manner, the *Guardian* (quoted in Agbaje and Adejumobi 2006, 36) noted of the most dominant party, the PDP, that “if the PDP cannot submit itself to the rule of law and due process, then it cannot be entrusted with the country’s constitution.”

Basically the same approach is deployed by the major political parties in interparty affairs and elections, ensuring that the more advantaged (financially, politically in terms of the level and number of governments it controls in the putative federation) a political party is, the better placed it is to rig elections, of which a very senior official in the electoral commission for the Second Republic (Kurfi 2005, 101), has had this to say: “rigging is almost synonymous with Nigerian elections.”

As further elaborated by a journalist (Abdullahi, in Agbaje and Adejumobi 2006, 26),

it is bad for people to rig elections. But life in Nigeria is a rigged life. The electoral process, the political parties, the governance structure, the entire system, everything is decidedly rigged against the ordinary person. It is, in fact, almost absurd to talk of rigging here when that is what the entire system is all about.

Due to space constraints, four other major factors, among others, that have sapped the capacity of political parties of the Fourth Republic to deliver democracy in any meaningful manner are highlighted below. These include lack of transparency in party financing, the attitude of the dominant parties to democracy, the nature of opposition parties, and the efficacy of institutions with powers of oversight and regulation and the extent of their relative independence from dominant partisan forces.

There is near-total lack of transparency in the area of the two sources of party funding, namely public and private. An assessment by the Economic Commission for Africa, published in 2005, which highlights the implications of this lack of transparency, notes for Nigeria (and the African context in general) that although relevant legislation guarantees annual grants to parties through the electoral commission “on a fair and equitable basis in order to assist the parties in discharging their functions,” an additional

common practice is for the ruling party to take undue advantage of state resources and deploy them for its private political ends during

political campaigns and elections. Using government vehicles, diverting public funds to the political party and awarding contracts to party members are unhealthy political practices that do not encourage a level playing field among political parties and undermine the fair competition among political actors and organizations in a democracy. (42–43)

The report goes on to note for Nigeria and a few other countries that although the electoral or party laws “provide for regular auditing and monitoring of political parties’ accounts by the state electoral commission or another government department, in most countries the enforcement regime is very weak” (ECA 2005, 43).

The attitude of dominant parties in the putative federal arrangement further makes the political terrain hostile to marginalized parties and other interests. In a virtually uniform manner, the parties in control of government at all levels (local, state, and federal) tend to perceive opposition expressed through other parties or other platforms as the antics of mortal enemies. These parties (the PDP at local, state, and central levels and the ANPP, PPA, and AC at local and state levels) are uniformly impatient and intolerant of opposition. The net effect is that the parties are generally so entrenched in their spheres of dominance of governance that it is usually the exception (and such exceptions have indeed been recorded, thanks largely to the vigilance of the electorate or occasionally to superior capacity to rig arising from connections with federal power) rather than the rule for an incumbent party to be voted out of, especially executive, office at the local, state, or federal levels of government. As it is with the PDP, so can it be said of the other major parties,⁵ that

In the PDP of today, all known rules of democracy have been thwarted. The party does not care a hoot about the processes of election or selection. . . . In the party, it is not the people that make choice; it is the few who have seized the instruments of power that impose their will on the people. If democracy is to throw open the polity for mass participation in political affairs, the PDP has shrunk the political space, thus making democracy look like a closed shop. The sins of PDP against democracy are legion. (Obi, in Agbaje and Adejumo 2006, 36)

In effect, although it is generally agreed that a political environment that guarantees freedom to operate and provides protection to all political parties is “essential for free and fair electoral competition and for political parties to grow and be institutionalized in the

democratic process” (ECA 2005, 41), opposition parties have often not enjoyed these rights:

The political environment is often very intimidating for the opposition, whose supporters are harassed and sometimes arrested on trumped-up charges by agents of the state acting on behalf of the ruling party.

In a federal arrangement as we have in Nigeria, with more than one layer of government and many governments at sub-national levels, the predictable outcome of a clash of aspirations among parties that can simultaneously be in power at one level and in opposition in another, or simultaneously be in power and opposition in regard of governments at the same level of federal arrangement, is a recourse to and spiral of political violence. In a lengthy comment, even INEC had this to say about the 2007 elections (INEC 2007, 95):

The Commission observed with dismay the pervasive effect of electoral violence in the election process; a phenomenon which, if left unchecked, would have compromised the integrity of the process. The preponderance of politically motivated assassinations prior to the elections, intimidation of political opponents, hijack of election materials, and youth restiveness in the Niger Delta predictably impacted adversely on the character of the process. Violence, painfully though, appeared to be the order of the day hence its reckless utilization by desperate political actors as the shortest course to victory.

In the face of all this, the saving grace appears to be the long-suffering commitment of the Nigerian people to a governance system in which, all things being equal, they could have a voice in the way they are governed. As the CDD (2003, 3) has noted:

There can be no doubt that Nigerian citizens value a voice in their own government in and of itself, and that they still see the ballot box as the way to address the huge variety of problems which face them, is a tribute to their patience with a system so loaded against the interests of the powerless.

A convenient point at which to bring this chapter to a close is one at which the question is raised as to the extent to which Nigeria’s political and other elite can continue to assume that the elasticity of this patience and this commitment is infinite, without a snapping point. It is only if this question is answerable, quite unnaturally, “no” that the elite can allow the chicanery of the Fourth Republic to continue. This

is especially true in the context of the growing evidence not only of the possible democratic failure that party activities tend to accentuate but also of the increasing effect of the parties in contributing in their own little or “big” way, as the case may be, through electoral rascality and sapping regulatory and oversight institutions of much of their vitality, to nurturing the culture of political dictatorship in the country. (ECA 2005, 17–53; Agbaje 2004, 201–233; Ninsin 2006, 5–7; TMG 2000; Mole 2003, 38–79; Lewis 2003, 34, 33; ICG 2006, 14–18, 27–28; Lewis 2003; Agbaje and Adejumbi 2006; Fox et al. 2003, 28–83; Agbaje et al. 2006; ARD 2004).

CONCLUSION: PATHWAYS TO A DEMOCRATIC FUTURE

The balance of evidence so far points to a dismal future in terms of the role of political parties in facilitating democracy, good governance, and development in Nigeria’s Fourth Republic. In fact, it is obviously the case that the republic’s dominant parties are fast emerging as front-line candidates in the race to identify the most active gravediggers for that republic, given their penchant for literally expanding the sphere of undemocratic practices in the polity.

In spite of all this, I make bold to suggest that, to the extent that the agency of human intervention can transform the past from an albatross to an instrument of renewal; to the extent it is not necessarily only the past, but also the future, that can determine the fortunes of a people; to the extent that what a people aspire and commit themselves to is more important in shaping their future than all the evidence of history and contemporary reality—to that extent, we must begin to focus on how to create for Nigeria a future democratic order fashioned and sustained by a party regime committed to the pursuit of liberty, development, human welfare, and social justice.

To be sure, the past has had its own redeeming features. Although the party system has always been elitist, there were periods in the country’s history when charismatic leaders and a committed followership were able to reach out to party faithfuls and the mass of the Nigerian people much more successfully than has been the case in the last 25 years. What was required then, as now, was to ensure that such mass mobilization was not episodic, nor antidemocratic, nor selfish, nor culturally divisive, and that such engagement between parties and the mass of the people and among parties and governments was significantly institutionalized. In addition, many years of

undemocratic (military and civilian) rule that have failed to deliver effectively in terms of vital freedoms, development, and peace have engendered among a broad spectrum of Nigerians a disdain for dictatorship broadly defined. Again, a next vital step yet to be taken would involve transforming such negative feelings against dictatorship into widespread support and yearning for democracy and its institutions, political parties inclusive.

The project of reconstructing the future for democracy must involve at the least four key components: time, the political elite, the people, and institutions. Time is required to address the experience deficit of Nigerians and their leaders in their everyday lives in regard to meaningful construction and management of democracy and democratic institutions and processes. For now, there is experience overload in the wrong fields, including skills involved in deepening and expanding the structures and practices of intolerance, dictatorship, corruption, and impunity in state and society. It is, therefore, imperative to ensure that extraconstitutional disruptions to the political order (from the military, from the political elite, or, worse still, from a people fed up by the chicanery, venality, inanities, and incompetencies of those who govern) are discouraged.

Complementary to this is the need to ensure that the political elite, central as they are to the refashioning of political parties and the construction of a genuinely democratic order, refrain from those practices and preferences that could, if unchecked, serve as open invitation or incitement to act by those who may want to seek unconstitutional means to address age-long problems that the current republic appears incapable of solving. The elite require a strategic vision and a culture of restraint that encourages a depersonalization of process and institutions and promotes the public good over and above short-term gains.

Equally related is the need to encourage among the mass of the people, and between the people and those who govern over them, the spread and triumph of a culture of critical but civil engagement, tolerance, and commitment to a civic order so as to enthrone accountability and transparency in public and not-so-public affairs. It is in such contexts that institutions that perform regulatory and oversight functions can begin to be strengthened and meaningfully transformed from the shells that many of them are at the moment into functional and autonomous ramparts for democracy, development, and peace.

I can go on and list what needs to be done in such specific areas as party formation, party funding, the role of the electoral commission, the mass media, the various arms of government, civil society, international agencies, and so on. I believe, however, that the key elements

that need to be addressed have been identified above. Beyond this, what is left is to remind Nigerians and those who govern or seek to govern them that the future remains essentially a clean slate, and what the current generation commits itself to writing on that slate will determine whether this generation moves the country forward to a democratic future—leaving a golden legacy—or back into unsustainable dictatorship—leaving only smoldering ash.

APPENDIX I

Table 3.1 Political Parties in Nigeria's Fourth Republic

(1) Accord	(A)
(2) Action Alliance	(AA)
(3) Action Congress	(AC)
(4) Advanced Congress of Democrats	(ACD)
(5) Allied Congress Party of Nigeria	(ACPN)
(6) Alliance for Democracy	(AD)
(7) African Democratic Congress	(ADC)
(8) African Liberation Party	(ALP)
(9) All Nigeria Peoples Party	(ANPP)
(10) All Progressives Grand Alliance	(APGA)
(11) Action Party of Nigeria	(APN)
(12) African Political System	(APS)
(13) African Renaissance Party	(ARP)
(14) Better Nigeria Progressive Party	(BNPP)
(15) Congress for Democratic Change	(CDC)
(16) Community Party of Nigeria	(CPN)
(17) Citizens Popular Party	(CPP)
(18) Democratic Alternative	(DA)
(19) Democratic Peoples Alliance	(DPA)
(20) Democratic Peoples Party	(DPP)
(21) Fresh Democratic Party	(FRESH)
(22) Hope Democratic Party	(HDP)
(23) Masses Movement of Nigeria	(MMN)
(24) Movement for the Restoration and Defence of Democracy	(MRDD)
(25) National Action Council	(NAC)
(26) Nigeria Advance Party	(NAP)
(27) Justice Party	(JP)
(28) Liberal Democratic Party of Nigeria	(LDPN)
(29) Labour Party	(LP)
(30) Movement for Democracy and Justice	(MDJ)
(31) National Conscience Party	(NCP)
(32) New Democrats	(ND)
(33) National Democratic Party	(NDP)
(34) Nigeria Elements Progressive Party	(NEPP)
(35) National Majority Democratic Party	(NMDP)

Continued

Table 3.1 Continued

(36) New Nigeria Peoples Party	(NNPP)
(37) Nigeria Peoples Congress	(NPC)
(38) National Reformation Party	(NRP)
(39) National Solidarity Democratic Party	(NSDP)
(40) National Unity Party	(NUP)
(41) Progressive Action Congress	(PAC)
(42) Peoples Democratic Party	(PDP)
(43) Peoples Mandate Party	(PMP)
(44) Progressive Peoples Alliance	(PPA)
(45) Peoples Progressive Party	(PPP)
(46) Peoples Redemption Party	(PRP)
(47) Peoples Salvation Party	(PSP)
(48) Republican Party of Nigeria	(RPN)
(49) United Democratic Party	(UDP)
(50) United Nigeria Peoples Party	(UNPP)

Source: INEC (2007, 98–99)

NOTES

1. On this, see the highly illuminating Scott (1998, 3).
2. I owe this point to Falola (2008, 1–26).
3. On the discussion that follows, please see Agbaje (1997, 361–87).
4. Emphasis in the Agbaje and Adejumobi (2006, 36) version.
5. Literally defined here as any party in control of at least one government at the state or federal level.

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INEC and the Electoral Process

Said Adejumobi

The 2007 state and federal elections have fallen far short of basic international and regional standards for democratic elections. They were marred by poor organization, lack of essential transparency, widespread procedural irregularities, significant evidence of fraud particularly during the result collation process, voter disenfranchisement at different stages of the process, lack of equal conditions for contestants and numerous incidence of violence. As a result, the elections have not lived up to the hopes and expectations of the Nigerian people and the process cannot be considered to have been credible.

—European Union Election Observer Mission to Nigeria, 2007¹

It is sad and unfortunate that INEC has become part of the plot to scuttle our transition programme and indeed, our hard earned democracy...INEC has become an obstacle to free and fair elections in April and we owe it a duty to the Nigerian people to check this executive interference in the work of the commission and urgently take steps to restore its independence and integrity.

—Atiku Abubakar, former Vice President of Nigeria²

INTRODUCTION

Three elections were conducted in the redemocratization period of 1999–2007 in Nigeria: in 1999, 2003, and 2007. Each of these elections was very controversial, with the 2007 elections leading the pack.

The degree to which the essential goals of any election—that is, to register voter preferences among competing parties and individuals, to ensure an orderly process of leadership selection and change, and to provide legitimacy and political trust for the government—were achieved was questioned in every one of those elections. Put differently, those elections were hardly credible. And no feature is more key to the definition of a democratic political system in a contemporary modern nation-state than credible competitive elections (Powell 2000, 4).

Failed elections in Nigeria have brought about a cycle of governmental instability, and they have contributed to the retardation of the country's socio-economic progress and its current underdevelopment. As Festus Iyayi observed, “electoral practices in Nigeria have contributed to the underdevelopment of the country not only because they contribute to instability in the social order but also because a government that rigs its way into power and then sends its officials abroad to beg foreign investors for money cannot be trusted. Foreign investors know that a government that steals the votes of its people will also steal the money that they may want to invest in the country” (2005, 14).

A major factor in the conduct of successful competitive elections is the existence and effective functioning of an independent, non-partisan, and competent electoral institution that serves as umpire in the electoral process. The role of this electoral body is to ensure the indeterminacy of elections, such that electoral outcomes are uncertain and offer the possibility of yesterday's losers becoming today's winners and vice versa. The electoral body is supposed to set the procedure, rules, and processes, and provide the institutional infrastructure and logistics for elections. However, as Gyimah-Boadi noted, election authorities in Africa “tend to lack independence, with many of them located within the executive branch of government, and election administration is generally weak in terms of logistics planning, implementation, and monitoring” (2007, 27).

In Nigeria, there is a paradox to the fate of electoral authorities. Electoral authorities often wear the official badge of “independence” in their names yet fail to live up to it. The electoral commission is usually viewed with deep distrust and suspicion by the people, by civil society, and by most opposition political parties. This view is fueled by the deteriorating cycle of electoral performance, in which every election conducted is worse than the previous one. Election management in Nigeria does not conform to the economic theory of efficiency in which repetition and cumulative experience improve

performance and efficiency. As the Independent National Electoral Commission (INEC) accumulated more experiences, its performance deteriorated remarkably from 1999 to 2007.

What accounts for this deteriorating performance of the electoral commission? What is the history of electoral administration in Nigeria and what are its basic features? How did INEC manage the electoral process in terms of precepts and practices? Was INEC an independent umpire in the electoral process? If not, what compromised its autonomy? How did the trajectory of the electoral process play out, what are the issues, processes, problems and challenges of the electoral process, and what role did INEC play in all this? How can the capacity and autonomy of INEC be strengthened to make for better performance in the conduct of elections? These are the issues this chapter will address.

The first section of the chapter undertakes a historical analysis of electoral management in Nigeria. It identifies its basic features, dispelling the myth about “transition” versus “consolidation” elections that portrays the former as being better organized than the latter. The second section reviews the legal and institutional framework of the establishment and operation of INEC. The third part is on the precepts and processes of the elections, including electoral law and regulations, voter registration, voter education, and general preparations for the elections. The fourth part is on the actual conduct of the elections. What are the distinguishing features of all the elections conducted by INEC from 1999 to 2007? The fifth part is a theoretical interpretation of the poor performance of the electoral institution. Having analyzed the institution, processes, and dynamics in the conduct of the elections, how do we understand the failings of INEC in a coherent and systematic way? Then comes the chapter’s conclusion, followed by key policy issues and recommendations.

ANTECEDENTS

Elections and electoral administration in Nigeria have a colonial pedigree. Right from the introduction of the elective principle in 1922, elections organized in Nigeria have been controversial and rarely perceived to be free and fair. The notable difference between colonial and post-colonial election administration is that the latter was indigenously managed, with electoral administrators being Nigerians. But there are discernible patterns, trends, and trajectory in the country’s electoral management. First, electoral administration transcends the electoral institution; the services of auxiliary institutions—especially

in the public service, like the police for electoral security and the civil service—are required for the conduct of elections.

Second, there has been a trend toward centralization in election administration. From a decentralized form of managing elections in the colonial era, the trend in the post-colonial period has tilted toward greater centralization. For instance, under colonial rule and the immediate post-independence era, the regions organized and managed their elections. However, under military rule, election administration became increasingly centralized, reflecting the nature of military rule itself. An all-federating electoral commission was established to manage the conduct of elections nationally.

Third, more powers and functions have increasingly been conferred on the electoral authority. From 1959 to 1979, the electoral authority (Federal Electoral Commission—FEDECO) grew from having the responsibility only of conducting elections to having the power to register political parties, arrange for and audit their accounts, and organize and supervise all matters pertaining to elections. Under the Babangida transition program, the National Electoral Commission (NEC) wielded more power, including disqualifying candidates for office based not on election criteria, but on extra-electoral political conditionality imposed by the military junta on the political process; registering of two political parties, monitoring the activities of those parties; delimitation of constituencies; and preparation of the voters' register.

Fourth is the increasing deterioration in the performance of electoral institutions and electoral outcomes. Successive elections have been more heatedly contested, with allegations of rigging, violence, and partisanship of the electoral institution. This largely accounts for the collapse of democratic rule in Nigeria. As Humphrey Nwosu, former chairperson of the electoral commission, noted, "the failure of attempts at democracy and the subsequent demise of first and second republics were due, to a considerable degree, to electoral malpractices and behaviours that manifested in election results lacking credence of quite a sizeable section of the Nigerian populace" (1992, 8).

There is no marked difference between elections conducted under military rule and those conducted during civilian dispensation in Nigeria, which some have characterized as "transition" and "consolidation" elections, respectively (Onuoha 2003, 49–60). With regard to military supervised elections, there are two major constraints in the process of electoral management. First is the non-neutral nature of the military with regard to political succession, which has bearing on the nature of political actors thrown up by the process, the nature of

electoral rules, and the management of the electoral process. Second is the character of the military itself, which predisposes it to excessive political control of institutions that it establishes, including the electoral commission. This character often has severe consequences for the independence or autonomy of the electoral commission. This was a recurring problem in 1979, 1986–1993, and 1999. For instance, Eme Awa, a former chairperson of the National Electoral Commission (NEC) under the Babangida military regime (1984–1993) narrated his experience of the enduring tension between NEC's desire for autonomy and military practices. According to Awa, while in theory the autonomy of NEC was guaranteed, in practice it was not. There were several impediments to the autonomy of NEC. First, NEC, in terms of administrative oversight and control, was tucked under the office of the chief of general staff, who often regarded the electoral commission as one of several agencies under him (Awa 1997, 130). The upshot was that the office regularly issued administrative controls to NEC and sought to influence it in terms of contract awards and the disqualification of election candidates. Awa summed up his argument against this situation as follows:

How should NEC, supposedly an apolitical body, relate to the government? How could the autonomy of the agency be preserved while it reports to senior military officers whose behaviour traditionally is informed by authoritarian, not democratic, doctrines? If the autonomy of NEC as perceived by the public is eroded by the military, could the credibility of the NEC be sustained? If NEC comes to be seen as more or less a pawn in the hands of the military, would the political parties and politicians defer to its views and accept its decisions on elections? Should not NEC then be absolutely autonomous? (1997, 129)

The unceremonious removal of Eme Awa from office as NEC chairman, and the annulment of the June 12, 1993, presidential elections by the Babangida junta against the wishes of the electoral commission suggest that the issue of autonomy and better liberal space for the electoral commission in the organization of elections is a farce.

Similarly, the administration of elections remains a daunting challenge under civilian rule. In both the first and the second republics (1960–1966, 1979–1983), the electoral commissions were a pawn in the political chess game of the politicians. The 1964/1965 general elections have been referred to as a classic case in the politics of brinksmanship (Oyediran 1979, 17). In those elections, the federal electoral commission under the leadership of E. E. Esua was a ready accomplice in rampant cases of electoral fraud. There were cases of

unwarranted disqualification of candidates, especially from the opposition parties, by the electoral commission; hoarding and unequal distribution of nomination papers for candidates; and in some cases, outright rejection of nomination forms submitted by opposition candidates on flimsy excuses by the electoral commission (Kurfi 2005, 19–20). The consequence of the electoral fraud of the 1964/1965 elections was the collapse of the First Republic. The military intervened on January 15, 1966, citing the flawed elections as one of the major reasons for the collapse.

The 1983 general elections in the Second Republic saw a more bizarre form of electoral management. The voter registration, the sequencing of the elections, and the actual conduct of the elections were steeped in controversy. On the voters' register, FEDECO claimed to have registered 65.3 million people—a figure greater than the entire population of the country only 20 years earlier, and an increase of 18 million from the 1979 register. Because it was estimated that at least half of Nigeria's population in 1983 was below the minimum voting age of 18 years, the register therefore implied that Nigeria's population was at least double the number of registered voters—in the realm of 130 million—a number that exceeded reasonable estimates by 30–50 million (Diamond 1988, 69).

Also, the order of elections was changed to hold the presidential elections first, in sharp disagreement with the position of opposition political parties. The actual elections themselves were a notorious case of electoral misdemeanor. Various forms of electoral malpractice were perfected and put on display ranging from alteration of voting figures, snatching and stuffing of ballot boxes, voting by the underage, intimidation and harassment of opposition party agents, and the general misuse of the security forces in securing undue electoral advantage and victory by the ruling party. At the end of the “electoral coup d'état”, the ruling NPN party claimed to have secured what it called a “landslide” victory, having won the presidency and increased its control of governorship seats from 7 to 13 at the polls. In all this electoral perfidy, the electoral commission and its officials were seen as ready accomplices. As Larry Diamond noted, “figures were altered at virtually every level by electoral officials—from presiding officers, who could be persuaded for a modest sum to give a party a couple of hundred extra votes simply by writing ‘2’ in front of an ‘80’ on the official form, to assistant and deputy returning officers, whose fraud was on a larger scale” (1988, 77).

The above analysis of the historical context of electoral administration in Nigeria clearly confirms that Nigeria has had a checkered

electoral history and management. This analysis also draws our attention to some pertinent issues and questions. First, how should the electoral commission be constituted and its autonomy guaranteed in terms of the appointment and security of tenure of the commissioners and the funding of the commission? What should be the institutional structure of the electoral commission in the organization of elections? Should it establish its own offices across the country? Should it recruit its own permanent staff, which it can exercise full control over in the conduct of elections, or should it delegate this responsibility to ad hoc staff that it often recruits, who in most cases are poorly trained and easily manipulated by different political interests? Or should the entire machinery of elections be fully decentralized to sub-national electoral entities? What should be the relationship between the political authority and the electoral commission?

These raging issues constitute the core variables germane to the existence and effective functioning of an electoral commission. The ways in which those issues were handled from 1999 to 2007, against the background of previous experiences and practices, constitute the focus of the next section.

INEC: LEGAL AND INSTITUTIONAL FRAMEWORK

The constitution of Nigeria's electoral body conforms to the logic of federalism in which there is a national electoral body referred to as the Independent National Electoral Commission (INEC) and the State Independent Electoral Commissions (SIECs). The former conducts elections at the federal and state levels, while the latter handles the local elections. The logic is that local governments are under the purview of the states, and as such, state electoral authorities should handle elections at the local government levels. However, the relationship between the two tiers of electoral management bodies is not clearly defined, which leads to tension, contradictions, and sometimes conflicts.

INEC derives its existence from the 1999 Nigerian constitution; it is listed in section 153 of the constitution as one of the federal executive bodies. Its constitutional responsibilities include:

- Organize, undertake, and supervise all elections to the offices of the president, the vice president, the state governors and deputy governors, the Senate, the House of Representatives, and the House of Assembly of each state of the federation.

- Register political parties in accordance with the provisions of the constitution, and monitor their organization and operations, including finances.
- Arrange for the annual examination and auditing of the funds and accounts of political parties, and publish a report on such examination and audit for public information.
- Arrange and conduct the registration of voters and maintain and revise the voters' register for the purpose of any elections.
- Delimit and delineate constituencies.

Under the 2006 Electoral Act, INEC was given two additional responsibilities: to undertake voter education and to regulate parties' and candidates' campaign funding and expenses.

The commission is made up of a chairman, who is the chief electoral officer; 12 commissioners; and a secretary. The chairman and members of the commission are to be persons of unquestionable integrity and no less than 50 years of age in the case of the chairman and 40 years for the other members. The president appoints the members of INEC on the advice of the Council of State, subject to the confirmation of the Senate. They are to hold office for five years. In addition, there is a resident electoral commissioner (REC) in each of the 36 states of the federation, who should not be less than 40 years old. The REC coordinates elections at the state level.

INEC is supposedly an independent body; the constitution gives it power to appoint and discipline its own staff. However, while INEC may enjoy administrative autonomy, it has little political and financial independence. The president unilaterally appoints members of the electoral commission, and in a situation in which the ruling party controls the Senate, as occurred under the Obasanjo presidency, Senate confirmation of the members of the commission becomes a mere political ritual. A seemingly innocuous provision in the constitution further curtails the possibility of autonomy for INEC. The constitution affirms that in order to be a member of INEC, a person should be qualified to be a member of the House of Representatives. The interpretation of this—which may not necessarily be in the spirit of the constitution—is that since party membership is a major criterion for election to the House of Representatives because Nigerian electoral law does not allow for independent candidacy, those to be appointed as members of the electoral commission should likewise be party members (Adejumobi 2007).

INEC commissioners have tenure of office, but they do not have security of tenure. They can be removed from office by presidential

order, without a Senate vote; the president needs only to have some justification (Agbaje and Adejumobi 2006, 31). The fear of such a removal from office restrains the electoral commissioners from being assertive in the discharge of their duties. This issue reared its head during the controversial attempt by the electoral commission to disqualify some candidates based on the “advisory list” of allegedly corrupt politicians produced by the state antigrift agency, the Economic and Financial Crimes Commission (EFCC), ostensibly with the active connivance of the leadership of the ruling party, especially former President Olusegun Obasanjo. Some members of the electoral commission reportedly were of the opinion that only the courts, not INEC, had the power to disqualify candidates standing for elections. Instantly, those electoral commissioners were arrested by the EFCC, to be investigated on charges of corruption. Those commissioners had to agree to let the government have its way before they were released by the EFCC and the investigation dropped. In such ways is the autonomy of INEC circumscribed.

The 2006 Electoral Act provides a curious twist to the issue of security of tenure for electoral commissioners. The law sought to guarantee security of tenure for the resident electoral commissioners (RECs) (in charge of the states), but it did not do the same for the federal commissioners. Part 1, Section 7 (1 and 2) of the Act stipulates that the REC shall hold office for five years, the REC shall report to the commission, and the REC’s removal can only be effected by the president when it is approved by a two-thirds majority of the Senate, on grounds of gross misconduct or ill health. Perhaps the inability to address the tenure of the federal commissioners may be due to the fact that it is a constitutional issue, as how they are to be appointed is codified in the constitution. It may therefore require a constitutional amendment. While the provision of the 2006 Electoral Act constitutes a slight improvement, it does not make any significant leap in the political autonomy of the electoral commission. The major decision-makers in the commission are the federal commissioners, not the RECs.

With regard to financial autonomy, it is the prerogative of the executive to determine funding for the electoral commission. Although the funds for the commission are to be appropriated by the National Assembly in the national budget, the executive makes the proposal for the commission’s funding and determines how and when to disburse the funds. In 2006, there was conflict between INEC and the state financial regulatory authorities—especially the Central Bank of Nigeria, the Federal Ministry of Finance, the Office of the Auditor

General, and the Due Process Office—over problems associated with delays in disbursement of funds to INEC, lack of proper accounting for funds by the electoral commission, and non-adherence to the due process in financial matters by INEC. The import of this is that there is no well-laid, independent procedure for the financing of INEC and its financial accountability. INEC is treated as one of the state parastatals to be controlled and dictated to by state financial agencies. On INEC's financial autonomy, Abel Guobadia, a former chairman of the commission, observed:

I have always made the point that we do not have autonomy. That tends to retard and delay the approach to our work. If you call that erosion of independence, I will agree with you because delay creates problems for us. Things we should do over a 12-month period we are forced to do within three months. Thoroughness could therefore be compromised in a bid to beat the deadline for any programme. So, in that way, I will agree with you that we are not independent. I would wish that we get our money as and when we require it. (*The Guardian*, January 31, 2006)

In response to the funding problem, the 2006 Electoral Act (Part 1, Section 3.1) proposed the establishment of an INEC Fund. The monies to be paid into the fund include money meant to carry out its functions under the constitution and the Act, interest from investments made from the fund by INEC, and financial grants which may be given to INEC from time to time to carry out its functions. This INEC Fund may improve INEC's funding profile, but it does not take INEC away from the purview of executive authority in terms of funding. Under the Act, INEC shall submit to the Ministry of Finance a proposal on its budget by August 31 for the coming year, which shall be processed by the ministry as part of the executive budget. INEC, unlike the judiciary branch, has not been extricated from executive financial authority. The judiciary has its funding appropriated on the Consolidated Fund, which is not within the purview of executive control.

PRECEPTS, PROCESSES, AND PERCEPTIONS

Our discussion of precepts, processes, and perceptions relates to the scope of the electoral process, especially the pre-election environment, and perhaps transcends it. It involves the laws and regulations guiding the electoral process, particularly the electoral law, registration of voters, registration of political parties; the relationship of political

parties to the electoral commission in terms of its being perceived as an impartial arbiter in the electoral environment and activities; the relationship of the electoral commission to critical stakeholders in the democratic process, especially civil society; and public perception of the electoral commission's capacity to manage the electoral process. In most cases, controversies and trepidation about the ability of INEC to deliver on credible elections marked the pre-election context. On most crucial issues, consensus among the elite was virtually absent, and skepticism permeated people's attitude and mindset. During the period from 1999 to 2007, the enactment of the electoral laws, the process of voter registration, and INEC's neutrality amongst the political parties were deeply contested. This preparatory phase eventually had far-reaching implications on the actual conduct of the 2007 elections and their aftermath.

Electoral Law

The electoral law provides the ground rules for electoral competition. It provides the basis of interactions and exchange between the different electoral actors including the political parties, the electorate, and the electoral commission. INEC was established and commenced its activities without an enabling constitutional framework or electoral law to guide its activities. The Abdulsalami Abubakar military regime, partly out of its sudden emergence after the death of General Sanni Abacha in 1998 and the urge to quickly transfer political power to the civilians, had not yet drawn up a constitution for the country before INEC was set up. INEC was established via Decree No. 17 of 1998 to manage voter registration and oversee four rounds of elections in the transition process. Without a constitution or electoral law, INEC had to adopt an ad hoc strategy of issuing rules and guidelines to guide the electoral process and "often released rules governing each round of elections just days before the vote, which never adequately addressed many important issues" (Carter Center 1999, 15). The result was inadequate, inconsistent, and uneven access to information and insufficient standardization of the electoral process during the transition period. This is affirmed by the joint report of the Association of African Electoral Authorities (AAEA) and the International Foundation for Electoral Systems (IFES) on the local elections of December 5, 1998. The report noted: "of the issuance of guidelines and decrees for each transitional election, many gaps remain in the legal framework governing these elections which have resulted in a lack of

standard election procedure at the local level” (Clarke, Owen, and Palmer 1998).

The subsequent electoral laws that were enacted in 2002 and 2006 were marred by controversy, especially the 2002 Electoral Law. There were two major controversial factors in the creation of the 2002 Electoral Law. First, it was initiated without consultation with major stakeholders in the political process including the political class and civil society, thus eliciting deep resentment in the civil society and *real politicking* by the political class. Second, the passage of the bill was marred by executive manipulation and fraud. These facts discredited the electoral law after it was passed and signed into law.

After the introduction of the bill, some civil society organizations formed a network, the Electoral Reform Network (ERN), mainly to coordinate their legislative advocacy on the drafted bill and ensure that there was a level playing field for all political actors in the 2002 and 2003 elections. In its memorandum to the National Assembly, the ERN expressed its utter aversion to the bill. According to it:

INEC draft Electoral Bill in its present form will definitely stultify the electoral process, instead of opening up the democratic space. Apart from the executive powers conferred on INEC, there are many provisions which will not engender popular participation. It is with a view to liberalizing the process that the following memorandum was arrived at. (Electoral Reform Network 2001, 1)

Areas of concern for the ERN in the bill included voters’ registration, guidelines for the formation of political parties, the role of returning officers in the election process, auditing of the accounts of political parties, the composition of election tribunals, and the gender sensitivity of the bill.

Without due opportunity to influence the bill through consultation before its presentation to the National Assembly, political permutations and personal interests dominated the considerations of the legislators when the bill was tabled for discussion. There were three contentious issues in the bill. First was the issue of the order of elections. Elections are often in an ascending order (first local, then state, then national elections), but their order was reversed (from presidential down to local elections) in the new bill. Second was the issue of the registration of political parties. Stringent conditions were created for aspiring new political parties. Those parties were required to sponsor candidates in at least 15 percent of the councillorship, chairmanship, and state assembly elections spread across two thirds of the

federation before they could be registered as political parties. Third was the attempt to disqualify some serving elected governors with the provision of Section 182, Sub-Section 1 of the bill that governors who had been elected in any two previous elections (no matter at what period) were not eligible for re-election. These issues generated intense discord among federal legislators and their state counterparts and the elected state governors. To cap the controversy, when the bill was finally submitted to the president for his assent, the president tampered with the provisions of the bill and amended some parts of it without recourse to the National Assembly for approval before signing it into law. Mohammed Haruna comments on the complicity of Obasanjo, the National Assembly, and INEC on the intrigues and dirty politicking that characterized the bill:

President Obasanjo, to be sure, is not alone to blame for this outrageous electoral law. If the majority of the members of the National Assembly, the senators in particular, did not oblige Obasanjo's presidency at whose behest the INEC initiated the bill, we will not have been saddled with a law which at worst, is threatening on its own, to create unprecedented political chaos in the country, or at best, is looking like the last straw that may break the camel's back. (2001, 9)

The result is that the electoral law was denuded of public trust, credibility, and integrity, which adversely affected the electoral actors' and the populace's perception of and confidence in INEC.

The 2006 Electoral Law was less controversial, yet there were areas of sharp disagreement especially between INEC and the National Assembly members. INEC had proposed the introduction of an electronic voting system, but it could not convince the legislators on the matter. INEC was offered the opportunity of a trial run to demonstrate the system for the legislators, which ended in utter malfunctioning and fiasco. The legislators therefore rejected it, and they struck this provision from the electoral law. Maurice Iwu, the INEC chairman, lambasted the legislators, alleging that they were anti-change agents and retrogressive in their action. He insisted that with or without their endorsement, he would go ahead and introduce the system, because such a decision is of a technical and administrative nature, which does not require the express approval of the National Assembly. Such was the rabid, obstinate, and rigidly uncompromising nature of the leadership of the electoral commission—behavioral traits that alienated critical constituencies in the electoral process.

The 2006 Electoral Law was a major improvement over previous electoral laws; however, as far as guaranteeing free and fair elections are concerned, it has several gaps. For example, the law did not expressly prohibit the use of state resources during political campaigns, had no provision for transparency in the appointment of polling station staff or access to INEC decisions on this, and did not require that election results be displayed either at polling stations or at the higher levels of election administration (European Union Election Observation Mission 2007). It therefore compromises important elements of transparency in the electoral process and leaves loopholes for electoral fraud. Olisa Agbakoba, the president of the Nigerian Bar Association, concludes; “Our electoral framework is defective and will take us nowhere. The first thing to do is to meet with Professor Maurice Iwu and tell him that the document we have cannot move the nation forward and we have to amend it” (Ofou 2006, B1).

Voter Registration

Compiling a credible voters’ register is the first phase in establishing a level playing field in electoral competition among political parties and planning for transparent and acceptable elections by the electoral commission. Three voter registration events were conducted from 1998 to 2007, with each preceding a set of national elections. These events took place October 15–19, 1998, for the transition elections; September 2002 and January 2003 for the 2003 general elections; and October 2006–January 2007 for the 2007 general elections. Though the technology improved—from the manual registration method of 1998 to the computerized data recording system of 2002 with the filing of computer-readable forms by the electorate and the Direct Data Capture Machine (DDCM) of 2006/2007—each event produced a similarly poor outcome. They were marred by serious logistical problems ranging from shortage or hoarding of registration materials, delays in opening of registration centers, poor staff training, low levels of public awareness, lack of security at registration centers, connivance between registration officials and party agents on multiple registration, registration of underage persons, and general manipulation of the registration process. The result included disenfranchisement of a large proportion of the electorates through nonregistration, inflation of the voters’ register, and a general disaffection and disapproval of the process by the people. For instance, in the 1998 registration exercise, the official figure of 57.36 million people registered exceeded reliable estimates of the total number of

eligible voters possible in Nigeria at that period. In Kaduna state, for example, the number of people who supposedly registered to vote equaled more than 97 percent of the state's population according to the 1991 national census. Other states also registered highly questionable voter registration figures (Carter Center and NDI 1999, 16). As the Carter Center and the NDI further noted, "a poor registration exercise lay at the root of many subsequent problems during the transition and created opportunities for fraud" (Carter Center and NDI 1999, 16).

The 2002/2003 registration event was also punctuated with similar anomalies—theft and hoarding of registration cards, underage registration, lack of registration centers, hijacking or rerouting of registration materials, and intimidation of prospective voters (Lewis 2003; Carl LaVan, Pitso, and Adebo 2004; CDD 2003). Information Minister Jerry Gana admitted that there were "serious malpractices" during the voter registration process, with election officials hoarding voter registration cards with the aim of selling them to politicians (Milwaukee Journal Sentinel, September 12, 2002). The Center for Democracy and Development (CDD), a highly respected civil society organization concludes on the 2003 registration event, "nowhere in the country did INEC successfully carry out the three-day exercise in which temporary registration slips were to be exchanged for voters' cards" (CDD 2003, 2). At the end of the troubled exercise, INEC claimed to have registered 61 million eligible voters and disqualified about seven million. This figure (61 million) (together with those qualified) is mind-boggling, as it represents a 97 percent success rate of the the estimated total number of eligible voters in the country. Contrary to the electoral law, INEC did not display the voters' register, thus denying voters the opportunity of verifying their names on the list and lodging appropriate complaints, which invariably led to the disenfranchisement of many voters.

The 2006/2007 voter registration event was more chaotic and scandalous. The registration was scheduled to run from October 8 to December 14, 2006, but due to serious hitches and logistical problems that arose, it had to be extended until February 2, 2007, necessitating the amendment of the Electoral Act to accommodate this change. The introduction of the Direct Data Capturing (DDC) machine was intended to modernize voter registration and reduce fraud. By capturing registrants' personal data, including photo, fingerprints, and body data, DDC was meant to eliminate incidents of multiple registration, registration by the underage, and outright falsification of the voters' register. However, this novel idea was foiled by

poor management of the process by INEC. The whole process got off to a slow start with inadequate provision of the required facilities and equipment, especially the laptop computers that were to be used for data capture and processing. By the first week of December, about a week from the scheduled end of voter registration, INEC's chairman claimed that they had just taken delivery of about 15,000 machines, of the 33,000 required for the event. Even this figure provided by the INEC chairman was strongly disputed as being exaggerated, as many registration centers across the country lacked the machines (see, International Republican Institute, 2007: 8). For instance, in Imo state, only 82 of the 880 machines required had just been delivered, while in many other places, the machines were either grossly inadequate, the few available being hijacked by powerful ruling party members, or registration conducted in the homes of party chieftains with the active cooperation of INEC officials.

The process was marred by serious technical difficulties which included incessant breakdown of the machines, computer batteries running out of power with no way to recharge them, and inadequate ink and materials for the event. In some cases, the registration officials suggested that would-be registrants should pay for the ink needed to print the voter ID cards or demanded outright bribes in return for simply doing their jobs (Human Rights Watch 2007, 25). Out of desperation not to be disenfranchised, some voters had to lend their personal generators to the registration officials in recharging the registration machines. In addition, the registration officers were poorly trained with inadequate information about the details and processes of the exercise, and the level of public awareness was also very low. For instance, the registration officers and INEC staff could not answer clearly as to whether registration data would be shared among all the polling places in a locality so that voters could register at one location and vote at another, if they chose. Even the chief press secretary of INEC, Andy Ezeani, was unclear on this when asked by the pre-election team of Human Rights Watch (Human Rights Watch 2007, 25).

At the end of the massively flawed voter registration event, INEC claimed to have registered 61 million people, out of the estimated 70 million Nigerians of voting age. The display of the voters' register, which INEC claimed to have performed from February 5 to February 10, 2007, was very shoddy: in many registration centers across the country it was not carried out, and in the few places where it occurred, the complaints were legendary, ranging for outright omission of names of registrants to the presence of "ghost names" of people unknown in

the localities. The Alliance for Credible Elections (ACE), a coalition of civil society groups, had approached INEC to assist it in the process of displaying the voters' register across the country. The INEC chairman not only rebuffed the offer, but became outright hostile to the group. The consequence was that the final product—the voters' register—was of poor quality and lacked credibility. The European Union Observer Team had this to say on the quality of the voters' register during the April 2007 elections:

The voter register at polling stations on 14th April was largely not in alphabetical or numerical order, which delayed the voting process. In over 30 percent of polling stations visited, the *EU observers rated the quality of the voter register to be poor on the basis of significant numbers of under age voters, double entries, and missing or blurred pictures of voters* [emphasis added]. The additional or sole use of the manual register at some polling stations was a further indication of the limitations of the electronic direct data capture exercise. (European Union Election Observation Mission 2007)

With an inaccurate and polluted voters' register, INEC had thus set the stage for tainted general elections in April 2007 in Nigeria.

INEC—Political Party Relations

In order to ensure a transparent and credible electoral process, it is quite important that the electoral commission display nonpartisanship. The different political parties must not only have confidence in the electoral commission but perceive it as an unbiased, neutral umpire. INEC at inception sought to build a healthy relationship with the political parties and win their trust. INEC instituted the INEC/Political Parties Consultative Forum, which was meant to address any problems and issues arising between the political parties and INEC and to ensure bidirectional communication. Through this forum, INEC helped the political parties to draw up a "Code of Conduct" in 2003 to guide the behavior of parties in the electoral process. Besides the forum, the commission also holds regular meetings with political parties where issues are raised, complaints heard, and answers provided to those complaints (INEC 2005). In spite of all these measures, there were several issues and incidents that virtually eroded the confidence of the political parties, especially opposition political parties, in INEC particularly as preparations for the 2007 elections reached a frenzy.

The first perceived problem with INEC's neutrality was its stringent conditions for registering new political parties. Many new entrants into the political terrain felt that INEC, in excluding them from the electoral process, was unduly partisan in favor of the existing political parties. The manipulation of the 2002 Electoral Law by the presidency, tightening further the conditions for registering new parties, seems to lend credence to this belief. Some of the political associations seeking registration had to go to court to challenge INEC's rigid policy on party registration. Fortunately, in November 2002, the Supreme Court ruled against INEC, declaring the tough conditions for party registration to be unconstitutional—null and void. This landmark judgment opened the floodgate for registration of new political parties.

The second issue has to do with what appeared to be INEC's partisanship in several events in the electoral process. First, in the 2006/2007 voter registration event, it was discovered that some of INEC's electronic voting machines were being hidden in the homes of certain ruling party chieftains, especially in Oyo state.³ While the issue was widely reported by the media, INEC did not do anything to persecute the people responsible. Similarly, in the April 14, 2007, elections, the deputy governor of Ondo state was caught with stolen and stuffed ballot boxes, a finding that was widely reported in the media and acknowledged by INEC. INEC neither instituted criminal proceedings against the culprit nor charged him for any electoral offense. Instead, his party (PDP) was declared the winner of the governorship elections and the perpetrator was re-elected as deputy governor.

Another incident of INEC's apparent partisan complacency, if not complicity, was the gale of impeachments of state governors in 2004 to 2006, which was prompted by the presidency in collaboration with the state antigraft agency—the EFCC. Several governors were indicted for corruption and the EFCC sought to remove them from office by adopting illegal and unprocedural means. The state House of Assembly members in those states were cajoled, intimidated, and blackmailed by the EFCC to undertake the impeachments. The impeachment saga was so ridiculously conducted that clear constitutional rules were violated with impunity: in a particular case, six House of Assembly members impeached a governor in a legislative body of 30 people requiring a two-thirds quorum for the proceedings to commence⁴ (Adejumobi 2007; 2007a). INEC maintained stoic, if not conspiratorial, silence on this gross constitutional violation. However, when some constituency members initiated the process of recall of their elected representative in the Senate, Ibrahim Mantu,

who was the deputy Senate president and a strong ally of President Obasanjo, INEC frustrated and eventually stalemated the whole process. This issue reinforced the perception that INEC was an appendage of the presidency, with partisan interests.

Related to the above was the issue of the disqualification of candidates by INEC for the 2007 elections. The EFCC had prepared an “advisory” list of allegedly corrupt politicians, whom it wanted to stop from contesting the general elections in 2007. Many of the people on the list were prominent opposition leaders, including the vice president and presidential candidate of the Action Congress party (AC), Atiku Abubakar and some ruling party (PDP) members, who had internal disagreement with the president in the party. Without a legal mandate to disqualify those candidates, INEC rushed to disqualify them (*This Day*, August 16, 2006, 1; *Daily Independent*, April 3, 2007). Several pressure and professional groups including the Nigerian Bar Association warned INEC against such action, but INEC disregarded them. It took a Supreme Court judgment to nullify INEC’s action shortly before the presidential elections. However, some candidates had already been shortchanged by being illegally disqualified in the April House of Assembly and governorship elections.⁵ Kunle Fadipe, a former member of the National Human Rights Commission in Nigeria, captures quite poignantly INEC’s complicity in the disqualification fraud:

It is like there is a clandestine meeting between EFCC chairman, Nuhu Ribadu; chairman of INEC, Maurice Iwu; the legal team of Mr. President and PDP on how to make sure that some people are prevented from contesting elections. So, each of these groups would come up its own formula as to how to decimate the ranks of the opposition. (*Sunday Independent*, March 4, 2007, B8)

Clement Nwankwo, former executive director of the Constitutional Rights Project, also avers:

INEC in deciding that they do not want a candidate to run election or stating that they will not accept a particular nomination is in clear breach of its mandate. It makes it quite difficult to determine how clearly non-partisan INEC is. INEC to win legitimacy must jealously guard its non-partisanship. (*Sunday Independent*, March 4, 2007: B8)

The Anambra state governorship disqualification episode is more telling on the apparent partisanship of INEC. All the main opposition

party governorship candidates from the Action Congress (AC), All Nigeria Peoples Party (ANPP), and the All Peoples Grand Alliance (APGA) were disqualified, leaving the PDP governorship candidate, Andy Uba, virtually the sole candidate for the election. Uba was a senior special assistant to the former president and widely reported to be a close friend and confidant of the INEC chairman, Maurice Iwu.⁶ Uba won the election in a “landslide” victory, but his election was later annulled by the Supreme Court.

The disqualification of candidates was one of several methods adopted to weaken and neutralize opposition forces, both within and outside the ruling party, by the dominant faction of the PDP led by former President Obasanjo. Other methods included intimidation, arrest, and blackmail. For instance, the director-general of the Atiku Abubakar presidential campaign organization, Iyorchia Ayu,⁷ was charged along with two other persons—Timi Frank and Paul Santus Ofana—for acts of terrorism in the Niger Delta. Shuhu Garba, the media director of the Atiku Ababakar campaign organization, was arrested and detained for allegedly being in possession of some classified documents on state security. All these arrests and charges coincided with the timing of political campaigns. As such, INEC could not guarantee a level playing field for the political actors in the electoral process.

INEC and Civil Society

Partnership with civil society by the electoral commission is quite central to engendering public confidence in the electoral process and eliciting the required support in critical areas of election management like strategic planning, voter education, voter registration, and election monitoring. INEC did not develop a clear institutional framework for engaging civil society in its work. Interactions with civil society organizations (CSOs) were at best ad hoc and at worst adversarial, especially under the chairmanship of Maurice Iwu. In November 2003, INEC organized an “INEC—Civil Society” Workshop to review the 2003 elections. Participants at the workshop expressed disappointment at the dismal performance of INEC in managing the elections, and they agreed to conduct follow-up exchanges on future elections.

INEC’s relationships with major CSOs working on elections in Nigeria were by and large frosty and antagonistic. Organizations like the Transition Monitoring Group (TMG), the Alliance for Credible Elections (ACE), the Electoral Reform Network (ERN), and the

Nigerian Bar Association (NBA) could not secure a cordial working relationship with INEC despite several entreaties to INEC. In the 1999 elections, INEC was quite hostile to CSOs that organized themselves into domestic observers groups, accrediting only 800 out of their 10,000 members that sought accreditation. It took external intervention, by the former president of the United States of America, Jimmy Carter, who was leading a delegation of the Carter Center and NDI Observer Mission, before the INEC chairman, Justice Ephraim Akpata, agreed to accredit more domestic observers (Carter Center and NDI, 1999).

INEC's hostile posture toward CSOs reached an unprecedented level leading up to the 2007 elections as some of those groups shaped themselves into watchdogs of INEC's activities amid deep suspicion of a possible derailment of the electoral process given the prevailing political environment of an obnoxious, but aborted third-term agenda of former President Obasanjo. For example, the NBA offered to provide INEC with 20,000 registered lawyers to assist it in the conduct of the 2007 elections, in light of the dearth of personnel to perform the tasks. However, INEC refused. INEC informed the NBA that the lawyers could apply privately in their individual capacity to serve as ad hoc staff of the commission, and not as members or representatives of the NBA. INEC refused any official relationship with the NBA (Human Rights Watch 2007, 24).

The TMG had to raise a public alarm that its members were being hounded by security agencies on the instructions of INEC. According to the TMG (Okoye 2007, B3):

In the last few days, operatives of the State Security Service (SSS), apparently acting on the promptings and directives of the Chairman of the Independent Electoral Commission (INEC), Professor Maurice Iwu, have swarmed the offices of member organizations of the Transition Monitoring Group (TMG) in all the states of the federation, harassing, intimidating and threatening them. Some of the operatives are demanding the Certificates of the member groups and organizations, their membership strength and sources of funding. Some of the operatives claim that the Chairman of INEC directed them to screen and verify the credentials of member organizations of TMG before TMG can be given accreditation to monitor the 2007 elections.

The TMG alleged that INEC tried to muzzle, infiltrate, and weaken the organization for its principled stance on the conduct of

free, fair, and credible elections, and that the harassment by the SSS was another step in that direction. INEC subsequently declared that TMG would not be accredited as a body, and that member organizations of TMG should apply for accreditation individually.

INEC's unhealthy relationship with key election-related CSOs deprived it of an important resource, which it could have harnessed for improving the standards, quality, and credibility of the electoral process and the actual conduct of the elections.

In spite of what appeared to be shoddy preparations by INEC for the 2007 elections, the Nigerian electorate was determined to make its votes count. In spite of the uncertain political environment, the people were determined to make a difference in the political future of the country. The graph below is the result of a survey conducted by the Alliance for Credible Elections (ACE) and Centre for Law Enforcement Education (CLEEN) on the probability of the people voting at the elections.

As the graph indicates, 74.6% of the respondents showed very keen interest in voting at the elections, not necessarily because of confidence in INEC, but because of their determination to use their vote to make a difference in the political process.

While there was public enthusiasm and optimism toward the elections, the conduct and outcome of those elections confounded such hope.

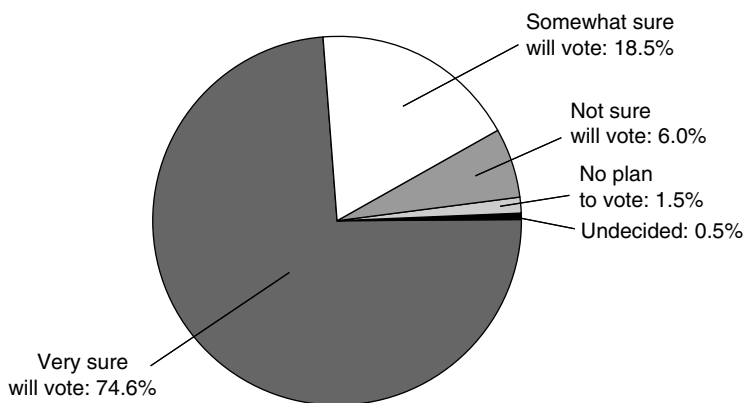


Figure 4.1 Voting Probability of Registered Eligible Voters in the 2007 Elections

Source: Summary Report of the National Public Opinion Survey on Preparations for the 2007 general elections conducted by the Elections Alliance for Credible Elections and Centre for Law Enforcement Education (CLEEN), January 2007.

ELECTIONS AND THEIR OUTCOMES

The three national elections conducted by INEC in 1999, 2003, and 2007 showed a similar pattern of poor organization, serious logistical defects, lack of transparency, excessive manipulations, wanton rigging and violence, and generally low credibility, which can hardly qualify them to meet acceptable international norms and standards in the conduct of elections. The difference among those three elections is not about type but details, not about form but magnitude. There was a steady deterioration in the conduct of those elections, peaking with the 2007 elections. As Chris Albin-Lackey (2007) noted, "Nigeria's rigged April polls were not unique—all Nigeria's elections since the end of military rule in 1999 have been marred by widespread fraud and violence. But this year's (2007) elections were particularly shocking because they were brazenly stolen with the collusion of government institutions charged with ensuring their credibility, including Nigeria's electoral commission and police force."

The January 9, 1999, state assembly and gubernatorial elections and the February 20, 1999, national assembly and presidential elections were characterized by organizational hiccups of shortage of materials, delay in the opening of registration centers, poorly trained personnel, and lack of transparency in the collation and tabulation of the ballots. Widespread electoral malpractices including stuffing of ballot boxes, inflation of results, and intimidation of voters were observed at the elections. The Transition Monitoring Group (1999: 1) observed that the "trend of awarding high votes, or votes in excess of the number of accredited voters, which had been observed during the National Assembly election assumed much greater proportions during the presidential elections." The Carter Center and the NDI in their joint report on the presidential elections noted that there was "disparity between the number of voters observed at the polling sites on the day of the election and INEC's reported high turnout. Whereas most delegates reported less than 20 percent of registered voters at the sites visited and rarely more than 50 percent turnout at any site, INEC reported a total turnout of 52.13 percent across the country, and eight states with 70 percent or higher turnout" (Carter Center and NDI 1999, 29). The delegation therefore concluded, "Regrettably, therefore, it is not possible for us to make an accurate judgment about the outcome of the presidential elections". The Carter Center and the NDI, like many other international observers, were very restrained in their comments on the 1999 elections, not because the elections were not massively flawed but because of an overriding concern for

a successful political transition to civilian governance in the country; an outright condemnation of the elections may have provoked a military backlash in form of a coup d'état.

The 2003 elections witnessed forms of electoral misdemeanor on a level beyond the 1999 elections. The elections were generally short on integrity. There was evidence of large-scale rigging, fraud, and intimidation in many parts of the country (Lewis 2003; TMG 2003; Anifowoshe and Babawale 2003; Mole 2003; LeVan, Pitso, and Adebo 2004; Human Rights Watch 2004; Agbaje and Adejumo 2006). Rigging techniques on display included numerous cases of underage voters; ballot box stuffing and theft; failure to deliver voting materials to opposition wards; intimidation by party thugs, vigilantes, and the police; falsification of tally sheets and declaration forms; and outright changing of figures (Lewis 2003, 142). The TMG observed that there was disconnect between the intent of the electorate and that of the politicians. The former desired to make a difference with their votes; the latter sought to pervert it. The TMG concluded that on the whole, "the results can be said to marginally reflect the choice and will of the Nigerian people" (TMG 2003).

The inability of INEC to effectively manage the course of the 2003 elections led some to conclude that INEC was in fact not in control of those elections. According to Alaba Ogunsanwo, "one thing was unique in the 2003 elections. The National Independent Electoral Commission was genuinely not in control of activities on election days. The decision in this regard had been taken much earlier but the implications were not immediately apparent to the various political parties" (Ogunsanwo 2003, 15). There were cases in which those who did not contest elections were declared winners, and those who won were deemed to have lost. In some cases, names of people who had not competed in party primaries or were not on the original party list of candidates were substituted overnight on the party list, and these suspiciously last-minute replacement candidates were declared winners by INEC.

In 2007, elections were held on April 14 and 21, the former being the state elections for the governorship and state House of Assembly and the latter for the federal elections of the presidency and the National Assembly (Senate and House of Representatives). The elections were marred by logistical nightmare, organizational inefficiency, rampant cases of partisanship by INEC, and sophisticated forms of rigging, which have been aptly described as "digital age" rigging. In its report on the elections, the International Crisis Group noted, "The first set of problems that marred the elections is located

squarely with INEC. These ranged from poor organization and logistics on polling days to acquiescence, if not collaboration, in vote rigging and other malpractices” (International Crisis Group 2007, 2). All the stages and processes of the elections—from the nature of polling stations to provision of voting materials, the electoral register, ballot secrecy, and the counting, tallying, tabulation, collation, and declaration of results—were riddled with crises as documented by all election observer groups. The Economic Community of West African States, in its declaration on the presidential and national assembly elections, noted the following gross lapses in the administration of the elections (ECOWAS 2007):

- Late commencement of voting across the country, particularly in the Niger Delta, the southeastern states, Ogun, Gombe, and Borno.
- Several polling stations remained in unsuitable and obscure locations.
- The absence or insufficiency of electoral materials, including indelible ink, stamp pads, and ballot papers, compromised the integrity of the ballot, particularly in the northern states of Borno, Adamawa, and Gombe and in several southern states including Ogun, Delta, Abia, Cross River, and Enugu as well as the Federal Capital Territory. Indeed, voting never took place in several parts of these states because of the non-arrival of materials.
- In several parts of some states, electoral materials did not arrive at all at the polling stations. In others, materials arrived after 4:00 p.m.,—one hour before voting was supposed to close—making voting practically impossible. Those states included Gombe, Ogun, Cross River, Abia, Akwa Ibom, Bauchi, Rivers, and Enugu.
- The poor level of training and orientation of the electoral officials compromised their capacity and efficiency in the conduct of the elections.
- The widespread absence of polling booths undermined the secrecy of the ballot.
- In several parts of the states observed, counting of ballot papers took place well before the official closing time of 5:00 p.m. due to the shortage of voting materials, the absence of voters, or inadequate knowledge of the rules by electoral officials.
- In several collation centers observed across the country, the collation of results was delayed considerably, seriously challenging

the transparency of the collation and tabulation of election results.

Several malpractices characterized the elections. As the TMG (2007) documents, these include:

- The intimidation of voters, and in some cases, of election observers
- Partisanship of INEC and security agents
- An unacceptably high incidence of violence recorded during the elections
- Underage voting
- Hoarding of election materials, including ballot papers and result sheets, by INEC officials
- Stuffing of ballot bags by dominant parties, often with the active connivance of INEC and security officials
- Snatching and theft of ballot bags and papers
- The criminal intent of INEC officials in depriving those whose mandates were stolen of effective judicial remedy by denying them the result sheets, which could have been used in the election tribunal
- The diversion of election materials, especially ballot papers and result sheets, to private homes of powerful politicians from where the ballot papers were thumb-printed or the results of elections were written

The TMG, like virtually all the other election observer groups, therefore concluded that the conduct of the entire elections lacked transparency and was deliberately programmed by INEC and the Obasanjo administration to fail.

In a post-election testimony, participants at a “Citizens’ Tribunal” convened by the Alliance for Credible Elections (ACE) on April 28, 2007, reiterated the failure of INEC to live up to expectations for the conduct of the elections and recommended that the leadership of INEC should be held liable and tried. The tribunal noted,

It is our opinion that from the totality of the evidence given, there was no genuine attempt by the Independent National Electoral Commission and the ruling Peoples Democratic Party to conduct the said April 14th and 21st 2007 elections in a free, fair, transparent and credible manner . . . It is our opinion that what took place in Nigeria on 14th and 21st April 2007 cannot be characterized as elections. It is also

our opinion that due process and the rule of law were not observed in the whole process. An unacceptable percentage of public leadership that emanated from the elections constitutes a huge moral burden to the conscience of the people of Nigeria. (Alliance for Credible Elections 2007)

The ACE position above summarizes the failed elections of 2007 in Nigeria and the deepening crisis of democracy and governance in the country.

THE INEFFICACY OF INEC: A THEORETICAL INTERPRETATION

What are the reasons for the inefficacy of electoral management and the poor electoral process in Nigeria? In discussing INEC as a clear example of a failed electoral commission in the task of election management two theoretical perspectives provide useful insights into the problem: structural and institutional theories.

The structural theory focuses on the nature of the state and the character of the ruling class in explaining the incapacity of the electoral body. Based on a historical narrative, the nature of the state is seen as the fulcrum of political disharmony and electoral imperfections in the country. The evolution of the state, its nature and character, makes it a lingering contested political project, which, as Adigun Agbaje observed, is in “an unfinished state of uncertainty” (2004, 203). The state has not been able to establish hegemony over society or achieve popular legitimacy necessary for political consensus among groups and individuals in the political community. The weakness of the state makes its government a contested arena, where contending political forces or different factions of the ruling class seek to “capture” it for narrow political and sectional interests. Thus the state becomes a veritable site of fratricidal struggles for power and resources. Its omnipresent nature reinforces the stakes for its control. In this context, the customs for governmental conduct and behavior are not firm. Rules and procedures are weak, poorly adhered to, or easily subverted, mostly by ruling class forces that establish those rules. The electoral body as a state institution cannot exist outside the orbit of state culture. The electoral institution constitutes only another frontier in the struggle for the control of the state and its institutions by factions of the ruling class. The parlous material base of the ruling class makes the state a site of primitive accumulation of wealth, to which the control of state power is a major gateway. The

electoral body is central to the capture of power and the state. Festus Iyayi captures it succinctly:

It would be wishful thinking to expect that INEC can be made independent or more independent by a dominant political elite that practices politics as warfare; that privatizes state power when it captures it, that operates on the basis of ethnic identity and sees opposition as an enemy that must be destroyed. INEC will or may become better funded but such better funding will be related to the need for INEC to do better the bidding of that section of the ruling class in control of state power. (2005, 27)

Electoral management is therefore hostage to the political pathologies of the ruling class and the state. Thus, for instance, while the National Electoral Commission (NEC) under the Babangida regime was given enormous powers and resources as attested to by successive electoral commission chairmen,⁸ nonetheless, the institution still suffered a dearth of autonomy in terms of space for independent actions.

The problem with this theory is that it quite forecloses on the possibility of credible elections being conducted within the present structure of the state and ruling class configuration. It also denies intraruling class contradictions and the protracted interclass struggles taking place in the country. It cannot, for example, explain how countries with similar state structure and ruling class culture like Ghana, Liberia, and recently Sierra Leone were able to conduct free, fair, and transparent elections. The country specificities, therefore, becomes germane in the context of election management and outcome.

The institutional theory underscores the factor of underdevelopment in terms of the weak institutional capacity of the electoral body and other electoral agencies in managing the electoral process (See Jinadu 1997). Electoral management is construed as a very technical, skilled and intricate process, which requires high-level competence, continuous training, logistical capability and facilities, and resources. In most cases, the factor of underdevelopment or the poor prioritization of elections' management makes the electoral body poorly equipped to cope with those challenges. Poor institutional capacity therefore compromises the good organization and conduct of elections. To be sure, electoral management is a very complex undertaking that involves the delimitation of electoral districts or constituencies; compilation of the voters' register; recruitment, training, and deployment of electoral officials; establishment of polling stations

and booths; logistics in terms of the procurement, security, storage, distribution, and retrieval of electoral materials; registration of political parties; ensuring a hitch-free voting process; counting, tallying, and collation of votes and the announcement of election results; and, in some cases, handling election disputes or post-election conflicts. The problems of underdevelopment, which include poor institutional capacity, financial shortages, and poor availability of skilled electoral manpower, constrain the effective management of elections. It is these internal institutional factors that are decisive in efficient election management.

The structural theory treats electoral management as a political process; the institutional theory views it as a technical exercise. The former focuses on the role of extra-electoral agencies in determining the performance of the electoral institution; the latter emphasizes the centrality of the electoral body in electoral process and outcomes. These theoretical viewpoints are two sides of the same coin. The nature of the state and the institutional capability of the electoral body interact to determine the efficacy of electoral management and processes. In Nigeria, both the character of the state and the nature and capacity of INEC interacted strongly to determine electoral failure in the country. Obasanjo, insinuating the strategic importance of political power to state capture, declared that the 2007 elections were to be a “do or die affair,” and so they were. The ruling party left no stone unturned to subvert the electoral process. INEC also displayed unimaginable organizational incompetence and apparent partisanship in undermining the electoral process. To promote healthy electoral competition and management in Nigeria, policy reform will need to be on two fronts: reconfiguring the Nigerian state and a thorough reform of the electoral commission.

CONCLUSION

Elections, which are supposed to engender public confidence in the democratic process, confer political legitimacy on the government, and ensure citizens' participation in the political process, have become events of political disempowerment, intense acrimony, discord, tension, and violence. They have resulted in a general crisis of democracy and governance in Nigeria. As the International Crisis Group noted in the case of the 2007 elections in Nigeria, “elections which were supposed to move a country to a higher rung of the democratization ladder, create a more conducive environment for resolving its many internal conflicts and strengthen its credentials as a leading

peacemaker . . . generated serious new problems that may be pushing Nigeria to the status of a failed state.”

The reform of the electoral commission and the electoral process, the negotiation of a thriving partnership between the electoral commission and civil society organizations, the restructuring of the Nigerian federal system to make for greater decentralization of power to sub-national units, and the empowerment of the civil society and the people to defend their votes and mandate, are some of the urgent steps required to free Nigeria from the cycle of failed elections and illiberal democratic practices.

KEY POLICY ISSUES/RECOMMENDATIONS

There are several key policy issues arising from this chapter. These include the autonomy of INEC, better inclusion of civil society in the electoral process as partners, not adversaries, further reform of the electoral law, promotion of electoral accountability, and initiating critical discussion on a reform of the electoral system, with a view to possibly revising or changing the current electoral system used in Nigeria. I shall discuss these issues briefly.

Autonomy of INEC

There are two components of the autonomy of INEC: political and financial. The political aspect deals with the composition of the electoral commission and the influence exercised on it by the ruling authorities/party. As argued in the chapter, the current method of composing the electoral commission is glaringly defective. There are several options:

Option A: To have a balanced partisan composition of the electoral commission with the ruling and opposition parties having representatives in the commission.

Option B: To adopt a strictly technical, merit-based approach to the composition of the electoral commission. The recommended method would be to advertise the positions of the electoral commissioners and its chief, based on clear and rigorous criteria. The parliament would set up a purely technical committee to screen candidates, interview them, and make recommendations. The parliament would then debate those recommendations and send a list to the president for his final approval. Those to be appointed would have to be absolutely nonpartisan, competent people.

Option C: For the membership of the commission to be broad-based, representing diverse but strategic interests in the country including labor, professional groups like the academic staff union and the Nigerian Bar Association, women's associations, and the bench. This group would be nonpartisan actors with a major stake in the success of the electoral process. They would be nominated by their organizations, and the parliament would screen them before sending the list to the president for approval.

Evidently, given the Nigerian experience, options B and C are the most tenable.

Financial autonomy: The funding of the electoral commission should be charged to the consolidated fund. However, funding for the commission especially with respect to the preparations for elections should be pro-rated on a "cost per voter" basis. The current practice is a non-scientific one in which the electoral commission submits a budget to the executive, and that is sent to parliament as part of the state budget, which is debated and approved. There should be an accountable basis of budgeting for elections on a unit-per-voter cost of elections.

Inclusion of Technically Competent CSOs in the Electoral Process

There are CSOs that have amassed considerable expertise and knowledge on electoral matters in Nigeria. These include the TMG, the ACE, and the ERN, among others. They should be incorporated into the electoral process. Areas in which they could be of value include voter registration, voter education, display of the voters' register, and monitoring of the voting process.

INEC should provide institutional mechanisms for regular strategic interaction and dialogue with the CSOs and subcontract some of its activities, like voter education, to these organizations.

Reform of the Electoral Law

There is need to reform the electoral law in several respects. These include:

- Provision for the declaration and display of election results at every polling station

- The announcement of provisional election results, certified by all the political parties, at the local government level
- Ensuring that INEC updates and displays the voters' register periodically, making it available to a broad section of stakeholders, especially political parties and key CSOs working on elections
- Defining clear roles and responsibilities for CSOs in the electoral process

Also, there is need to clearly delineate the relationship between the state and federal electoral commissions and ensure that state electoral commissions are nonpartisan, well funded, effective, and functional.

Reform of the Electoral System

The “first past the post” system, while ensuring a clear locus of political power and a propensity to promote political accountability, encourages deadly struggle for political power. It falls short in engendering inclusiveness, and political consociationalism, as it is premised on a “winner takes all” basis. Indeed, some have questioned the democratic content of the system. It is argued that a party or individual that wins for instance 40 percent of the votes in an election may claim to be the winner, while 60 percent of the population or the constituency has not voted for the party or individual. Perhaps there is need to open an informed debate on the nature of an electoral system that will promote political inclusiveness, accountability, and democratic stability in Nigeria. A mixed system may be considered.

Electoral Accountability

The electoral commission has to be accountable to the nation on its activities before, during, and after elections. There is need for INEC to report its activities periodically to parliament and also undertake public financial disclosure of its activities, mostly after the elections. After major elections, INEC's electoral activities—financial, operational, and managerial—should be audited by a distinguished, nonpartisan team. In a situation in which the INEC leadership is found wanting, it should be recommended for trial in the law courts. Elections are important to the democratic health of a nation; those charged with it must be fully accountable for their actions or inactions.

NOTES

1. European Union Election Observation Mission to the Federal Republic of Nigeria (2007), "Elections Fail to Meet the Hopes and Expectations of the Nigerian People and Fall Far Short of Basic International Standards," *Statement of the Preliminary Findings and Conclusions of the Observer Mission to the Presidential, National Assembly, Gubernatorial and State Houses of Assembly Elections, 14th and 21st April, 2007*.
2. Text of Atiku Abubakar's letter to the National Assembly and the international community on the shoddy preparations for the 2007 general elections. See *Guardian Newspaper* (Lagos), March 12, 2007, with the caption: "Atiku Writes Assembly, EU, Others over INEC's Threat."
3. The person involved is Lamidi Adedibu, a PDP party chieftain in Oyo state, who is notorious for organizing armed gangs for his party for the purpose of terrorizing the opposition before and during elections in the state.
4. This was the case in Plateau state. This impeachment saga also took place in Oyo, Anambra, and Balyesa, and threats of it occurred in several other states.
5. This includes Chris Ngige, the AC governorship candidate in Anambra state; and the AC governorship candidate in Adamawa state, who was disqualified a few hours before the April 14 governorship election.
6. See Iyobosa Uwugiaren, "Suspicious Steps of an Umpire," *Daily Independent*, Wednesday, March 21, 2007, pp. B1–B3. In the article, the author alleges that a group of journalists had gone to interview Andy Uba on his governorship aspirations, but while the interview was going on, Maurice Iwu, the INEC chairman, burst into the candidate's living room oblivious that journalists were around. Iwu quickly retraced his steps, apologizing to Uba, "Sorry sir! I didn't know you were granting an interview; I will come back, sir. Sorry for disturbing you" (p. B1). This narrative shows the closeness between Andy Uba and Maurice Iwu.
7. Iyorchia Ayu was a former president of the Senate and minister of internal affairs.
8. Both Professors Eme Awa and Humphrey Nwosu, two successive chairmen of NEC, confirmed that NEC was given much powers and financial resources. (See Eme Awa, "Electoral Administration in the Early Transition" in Larry Diamond et al., *Transition without End: Nigerian Politics and Civil Society Under Babangida*. Ibadan: Vantage Publishers, 2004, p. 130, and Humphrey Nwosu, "Mechanisms for the Successful Conduct of Elections in Nigeria: 1992 and Beyond," *Nigerian Journal of Electoral and Political Behaviour*, Vol. 3, No. 1, March, 1992, p. 14.)

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Constitutionalism, Rule of Law, and Human Rights

Femi Falana

INTRODUCTION

Following the amalgamation of the protectorates of Northern Nigeria and Southern Nigeria in 1914, the British colonial regime imposed the founding Constitution of 1922. The other constitutions under which the country has been governed since then have equally been imposed by either colonial or military regimes. In particular, the *Constitution of the Federal Republic of Nigeria (Promulgation) Decree 24 of 1999* (otherwise known as the “1999 Constitution”) was created by the defunct Provisional Ruling Council and signed into law on May 5, 1999, by General Abdulsalami Abubakar, the last military head of state.

The document never saw the light of day until after the restoration of civil rule on May 29, 1999; however, in its preamble the constitution claims that “we the people of the Federal Republic of Nigeria” made and gave it to ourselves. As it did not derive from the Nigerian people, the late Chief F. R. A. Williams (SAN) once described the constitution as a “forged document” (Williams 2000, 8). It has, however, remained the supreme law of the country because it largely represents the selfish interests of the ruling class.

This chapter discusses the nature, scope, and application of constitutionalism as well as the observance of human rights in Nigeria from 1999 to 2007. From the conviction that constitutionalism has been subverted under the imposed 1999 Constitution, it is urgently recommended that Nigerians produce a new constitution that clearly

defines the limits of the powers of government and its social responsibilities to the people.

CONSTITUTIONALISM UNDER THE 1999 CONSTITUTION

In liberal political discourse, constitutionalism is defined in terms of the limited powers assigned to government and the guarantee of individual rights. According to Louis Henkin, constitutionalism implies that “public authority can legitimately be exercised only in accordance with the Constitution. There can be no extra-constitutional government, no exercise of public authority by any person or institution not designated pursuant to the Constitution. There can be no continuation in office beyond the term for which officials were elected or appointed” (Henkin 1998, 11–12). In the context of Nigeria it has been said that mainstream liberal democratic thought “emphasizes the supremacy of the Constitution, pluralist and competitive party politics, the need to protect and enforce fundamental human right including cultural, economic and social rights and the separation of powers” (Olagunju, Adele-Jinadu, and Oyovbaire 1993, 31).

In exposing the myth that surrounds the concept of separation of powers in liberal democracies, I. G. Shivji has observed that “constitutional provisions provide for, regulate and allocate functions/powers to the three branches while constitutionalism presents the process as a separation of powers thus ideologically masking the unity of state power. In the bourgeois liberal model, constitution and constitutionalism are fused” (Shivji 1991, 27–28).

In order to check the arbitrary exercise of power and promote accountability in governance, constitutionalism insists that the executive, legislative, and judicial powers be vested in separate organs of government.¹ But a holistic study of the constitution reveals that the enormous powers conferred on the president—the head of the executive organ—are a complete negation of the concept of separation of powers. Under the defunct military junta in Nigeria, all the powers of government at the federal level were concentrated in the head of state. The wide powers conferred on the president ought to be placed in proper context. The members of the Provisional Ruling Council who wrote the constitution were influenced by their dictatorial background and orientation. For them, the president required sufficient powers to govern the country effectively. Accordingly, the president

is said to be the head of state, the commander in chief of the armed forces, and the chief executive of the Federal Republic of Nigeria.²

The arbitrary exercise of such powers by Chief Olusegun Obasanjo, a former military ruler, stultified the development of constitutionalism in every material respect. The docility of the judiciary and the blind loyalty of the National Assembly to the ruling Peoples Democratic Party (PDP) weakened the capacity of the inbuilt mechanism to check the exercise of excessive powers by a president who saw himself as a messiah.

Apart from exercising executive powers, the president shared legislative powers with the National Assembly. Whereas the legislative powers to make laws for the peace, order, and good government of the federation are vested in the National Assembly (the Senate and the House of Representatives), any bill passed by the National Assembly cannot become law unless it is assented to by the president.³ Where the president withholds assent in respect of any bill, it cannot become law unless it is passed again by a two-thirds majority of the members of each chamber of the National Assembly. See *The National Assembly v. The President of the Federal Republic of Nigeria & Ors.*⁴

In addition to the power to assent to bills passed by the National Assembly, the president is also empowered to modify any federal enactment to make it conform to the provisions of the constitution. This, in effect, means that the president may alter or repeal any law that, in his wisdom, conflicts with the constitution. In November 1999, President Olusegun Obasanjo abolished the Presidential Task Force on Petroleum without any reference to the National Assembly. When some federal legislators protested the action, their attention was drawn to Section 315(4)(c) of the 1999 Constitution and the case of *Attorney-General of Ogun State v. Attorney-General of the Federation*⁵ in which the Supreme Court had held that “the President could modify the Act for the purpose of brining it into conformity with the provisions of the Constitution and modification has been defined under Section 274(4)(c) to include addition, alteration, omission or repeal.”

It has therefore been correctly observed that “these wide and arbitrary powers assigned to the President are only subject to abuse but subversive of a federal republic. It can indeed, be argued that what the 1999 Constitution has done is to confer all the dictatorial powers hitherto exercised by the former military head of state on the elected President of the Federal Republic of Nigeria” (Falana 2000, 133). The encroachment of the federal government on the autonomy of the

states was noted in *Attorney-General of Abia State v. Attorney-General of the Federation*⁶ in which the Supreme Court (per Musdapher JSC) held, *inter alia*:

The true position as aptly pointed out before is that power sharing arrangement under Nigeria's federal system, assigns to the federal government powers and resources so overwhelmingly greater than those assigned to the States, thereby depriving the latter of any meaningful autonomy in relation to the Federal Government.

It is apparent lopsidedness in the division of legislative powers among the three tiers of governments in Nigeria under 1999 Constitution that has given rise to sustained agitations in recent times for an amendment to the Constitution with a view to amongst other things, widening the scope matter in which the States and even the local government councils can exercise legislative powers in the true spirit of federalism as obtainable in other countries that operate the federal system of government.

The situation was compounded by President Obasanjo's dictatorial background. As a former military head of state, he never pretended to be a democrat. He did not brook opposition from any quarters. Party leaders, including Vice President Alhaji Atiku Abubakar and other founders of the PDP, were hounded out of the party for daring to challenge his undemocratic control of the party. There was a systematic attack on the opposition political parties while elections were manipulated to the extent that a one-party state was virtually imposed on a multiparty environment.

In his reflection on the development of authoritarian rule under the current political dispensation in Nigeria, Professor Ben Nwabueze (SAN) (2007, 23) had this to say:

The PDP's 'landslide victory' in the 2003 general elections not only resulted in the party gaining an increased majority in the National Assembly, it also brought another unfortunate consequence in its wake. It gave rise to a profound change in President Obasanjo's relations to the party and to the party's members in the National Assembly. As the architect of the victory, he began to see himself as the 'conquering lion of Judia' with a right to dictate to the party and its members. He became ever more dictatorial and ever more intolerant of differing views. His entire posture became, in short, that of a dictator, with the extreme arrogance inseparable from autocratic power. The traits of dictatorship inherent in his personality and implanted in him by his military antecedents began to assume and manifest themselves in a more marked form. What Obasanjo was

enabled to become would hardly have been possible in a situation, like that in the Second Republic, where the National Assembly was controlled by political parties different from the President's. Regrettably, the 'landslide victory in the 2003 election was re-enacted in the 2007 elections, throwing the country back to another four years of passive and docile National Assembly.

In exercise of what he perceived to be his executive powers, President Obasanjo completely subverted the democratic process. On a number of occasions, he deliberately bypassed the National Assembly contrary to the relevant provisions of the constitution. The most brazen violations of the constitution occurred in the management of the economy. In the implementation of the privatization agenda of the regime, some federal-government-owned companies and corporations were liquidated or sold to a few foreign or local investors contrary to Section 16 of the constitution, which prohibits the "concentration of wealth or the means of production and exchange in the hands of few individuals or of a group."

The Obasanjo regime hiked the prices of petroleum products eight times and increased VAT and tariffs on Nigeria's partially functioning social services without any enabling law passed by the National Assembly. Without having his nomination confirmed by the Senate, the president appointed himself the minister of petroleum resources and acted in that capacity for seven years, contrary to Section 147 of the constitution. Loans were granted to some African countries while the sum of US\$12.4 billion was paid to the Paris Club as "debt relief" without an appropriation by the National Assembly. The president raised about N1 billion from undisclosed sources to fund the National Political Reform Conference after the National Assembly had turned down the appropriation bill for the conference. The Revenue Mobilization Allocation and Fiscal Commission was compelled to drag the president to court for the illegal withdrawal of over N700 billion from the Federation Account to fund projects that were never approved by the National Assembly.

But for the resistance of a few state governors, President Obasanjo would have reduced all the states and local governments in the federation to appendages of the federal government. See the cases of *Attorney-General, Abia State & Ors. v. Attorney-General of the Federation*⁷ and *Attorney-General, Ogun State v. Attorney-General of the Federation*⁸ in which it was held by the Supreme Court that the autonomy of each tier of government in the federation was recognized by the constitution.

CONSTITUTIONALISM AND THE RULE OF LAW

By virtue of Section 6 of the constitution the judicial powers of the federation are vested in the courts. Accordingly, the courts are empowered to determine all matters between persons or between government or authority and any person in Nigeria and to all actions relating thereto for the determination of any questions as to the civil rights and obligations of that person. In the exercise of its powers, a court or tribunal shall be constituted in such manner as to secure its independence and impartiality. As the government is founded on the rule of law, all official policies and actions are required to be carried out according to law. To this effect the judgments and orders of all courts are binding on all authorities and persons in Nigeria.

It must be borne in mind that unlike legislators and the heads of the executive, who are elected by the electorate, judges are appointed by the executive. Indeed, the power to appoint and remove the Chief Justice of Nigeria and other federal judges is vested in the president, while governors are conferred with similar powers with respect to judges in the public service of the states on the recommendation of the National Assembly. Perhaps due to the overbearing influence of the executive on the judiciary, the courts compromised their own independence. While the courts gave some judgments that deepened the democratic space toward the tail end of the Obasanjo administration, the judiciary largely operated as an extension of the executive. This became quite noticeable in some states, where it was practically impossible for judges to give decisions against the interests of state governments.

Apart from the deliberate contravention of the constitution and other laws of the land, the Obasanjo regime acquired notoriety for outright disobedience of court orders. Through such acts of executive lawlessness the government resorted to self-help in utter disregard of the rule of law. In *Attorney-General of Lagos State v. Attorney-General of the Federation*⁹ the Supreme Court berated the president for directing that the statutory allocations for the local governments in Lagos be withheld on the ground that the Bola Tinubu administration had created new local governments without an enabling act passed by the National Assembly. According to Supreme Court Justice, Niki Tobi:

If the Federal Government felt aggrieved by Lagos State creating more local government, the best solution is to seek redress in a court of law, without resorting to self-help, which is not available to the executive or any arm of government. In view of the fact that such a conduct could breed anarchy and totalitarianism, and since anarchy and

totalitarianism are antitheses to democracy, courts operating the rule of law, the life blood of democracy, are under a constitutional duty to stand against such action. The courts are available to accommodate all sorts of grievances that are justiciable in law and section 6 of the Constitution gives the court power to adjudicate on matters between two or more competing parties. In our democracy all the governments of this country as well as organizations and individuals must kowtow to the due process of the law and this they can vindicate by resorting to the courts for redress in the event of any grievances.

Despite the mandatory order of injunction issued by the top court that the funds be remitted to the Lagos State Joint Local Government Account, the federal government refused to comply. However, a part of the seized funds was paid to the Lagos state government following the plea made to President Obasanjo by a committee of elders headed by Prince Bola Ajibola, a retired former judge of the International Court of Justice.

In the case of *Attorney-General of Abia State v. Attorney-General of the Federation*¹⁰ the plaintiffs challenged the provision of the Electoral Act 2001 that increased the three-year tenure of elected chairmen and councillors to four years. The Supreme Court declared that “no law enacted by the National Assembly can validly increase or otherwise alter the tenure of the office of elected officers or as councillors of Local Government Council except in relation to the Federal Capital Territory.” In its reaction to the judgment the federal government directed state governments to dissolve the local governments and replace them with caretaker committees. The directive was carried out contrary to Section 7(i) of the constitution, which provides that the system of local governments shall be “by democratically elected local government councils.” Since then, state governments have dissolved local governments and appointed caretaker committees or sole administrators to administer them at will.

In like manner, government agencies and officials continued to show total disdain for the rule of law by ignoring court orders. The then attorney general and minister of justice, Chief Bayo Ojo (SAN), introduced a new dimension to executive lawlessness when he purportedly suspended the execution of the judgments of the Court of Appeal that set aside the impeachment of Governor Rasheed Ladoja of Oyo state. Ojo illegally issued a similar order purporting to stay the execution of the judgment of the high court, which had ordered the restoration of Peter Obi as the governor of Anambra state.

Although the entire body of Nigerian lawyers boycotted the courts for two days in March 2006 to protest disobedience to court orders,

the dangerous trend continued unabated. Judges resorted to verbal condemnation of government officials who disobeyed court orders instead of sentencing them to prison for contempt of court. In the process, top government officials operated as if they were above the law of the land. The judiciary did not help matters by its negative attitude to public interest litigation. In a society ravaged by poverty and ignorance, the courts continued to apply the reactionary doctrine of locus standi to dismiss cases challenging violations of the constitution and other laws. In *Femi Falana v. Attorney-General of the Federation & Ors*¹¹ the plaintiff sought to compel the federal and the various state governments to educate all Nigerian children from primary to junior secondary school pursuant to the Child's Rights Act 2003 and the Compulsory, Free and Universal Basic Education Act, 2004. The submission of the plaintiff that he had a civil duty to enforce the rights of the children of poor people to education was rejected by the Court, which dismissed the case for want of locus standi.

Although the Supreme Court gave a number of judgments that promoted constitutionalism, the resort to sheer technicality in some of its decisions strengthened the hand of the then president. Thus, in *Attorney-General of Plateau State v. Attorney-General of the Federation*¹² in which the imposition of emergency rule in Plateau state was challenged, the case was dismissed on the flimsy ground that the suspended governor had no power to maintain the suit. In *Attorney General of Abia State v. Attorney-General of the Federation*¹³ the plaintiff challenged the constitutional validity of the Economic and Financial Crimes Commission (EFCC) Act and its power to arrest, detain, and prosecute officials of state governments. The action was struck down by the Supreme Court on the ground that there was no dispute between the Abia state government and the federal government when it is trite law that the EFCC is an agency of the latter.

The most disturbing aspect of the exercise of judicial powers was the way and manner in which Section 308 of the constitution was interpreted to give succor to corrupt public officers. Although it was intended to shield heads of government from exposure to frivolous litigation that might inhibit them from the performance of their constitutional duties and functions, the courts gave the misleading impression that the immunity clause was a complete bar to all proceedings. Accordingly, suits filed by concerned citizens against corrupt practices by public officers protected by the immunity clause were always dismissed. In *Gani Fawehinmi v. President Olusegun Obasanjo*¹⁴ the plaintiff questioned the legal validity of the license

granted by the federal executive council to the defendant to establish The Bells University. The action was dismissed on the ground that the defendant could not be sued, as he enjoyed absolute immunity. It was equally held by the Federal High Court that the plaintiff lacked the locus standi to maintain the case.

Having been given carte blanche, as it were, the heads of the executive at the federal and state levels engaged in corruption and abuse of office. Contrary to paragraph 6(1) of Part 1 of the Fifth Schedule to the Constitution, which provides that “A public officer shall not ask or accept property or benefits of any kind for himself or any other person” the president extorted over N7 billion from state governments, parastatals, and government contractors for the establishment of a Presidential Library at Abeokuta. Both President Obasanjo and Vice President Atiku Abubakar engaged in the illegal management of the Petroleum Development Trust Fund (PDTF) to service the business interests of their personal friends. Both of them also abused their office by granting licenses to themselves for the establishment of private universities.

Two then state governors, Joshua Dariye and D. S. P. Alamieyesigba, of Plateau and Bayelsa state, respectively, were arrested by the London Metropolitan Police with large sums of money and charged with money laundering. Both of them jumped bail and left the United Kingdom, as their immunity did not cover criminal activities committed outside Nigeria. And in a special report presented to the Senate in July 2006, the Economic and Financial Crimes Commission indicted 31 out of the 36 state governors. As 25 of the governors belonged to the PDP, the nation’s ruling party, the Obasanjo regime publicly disowned the indictment by the EFCC.

Attempts by the anti-graft agencies to bring the indicted governors to atone for corrupt practices were consistently frustrated by the judiciary. In *The Federal Republic of Nigeria v. Dr. Orji Kalu*¹⁵ the Code of Conduct Tribunal held that it “is not prohibited by the immunity provision of section 308 subsection 1(a) (b) and (c) from entertaining contravention proceedings and from issuing processes on any of the public officers listed in Part II of the Fifth Schedule to the Constitution.” But in *Joshua Dariye v. Attorney-General of the Federation*¹⁶ and *George Akume v. Attorney-General of the Federation*¹⁷ the Federal High Court held that the plaintiffs who were state governors could not be prosecuted on account of immunity.

In *Umana v. Attah*¹⁸ and *Attorney-General of the Federation v. Alhaji Atiku Abubakar*¹⁹ the court of appeal held that public officers who are entitled to immunity by virtue of Section 308 of the

constitution cannot be tried by the Code of Conduct Tribunal for the contravention of the provisions of the Code of Conduct. It was the erroneous position of the appeal court that proceedings before the Code of Conduct Tribunal are criminal in nature. However, such proceedings are neither civil nor criminal, as they are *ejusdem generis*. The appeal court's ruling precluded the effective investigation of public officials for violating code of conduct and the seeking of appropriate redress.

Section 52 of the Independent Corrupt Practices and Other Related Offences Commission 2000 provides that when an allegation of corruption is made against the president, vice president, state governor, or deputy governor, the chief justice shall appoint an independent counsel to investigate the allegation and make a report in the findings to the National Assembly in the case of the president or vice president and to the House of Assembly of a state in the case of the state governor or deputy governor. In spite of the several allegations of corruption leveled against the said public officers, the chief justice did not perform such statutory duty for eight years due to what the ICPC attributed to lack of funds (*Saturday Punch*, June 2, 2007).

While other anti-graft agencies threw up their hands in frustration as corruption became the order of the day in several states of the federation, the EFCC backed legislators who resolved to impeach their governors. In the process, governors of Bayelsa, Ekiti, and Plateau states were removed from office in controversial circumstances. Only the Plateau state governor, Chief Dariye, was restored on the orders of the court of appeal and the Supreme Court. However, he sneaked out of the country for fear of arrest and prosecution for corruption before the expiration of his immunity on May 29, 2007.

CONSTITUTIONALISM AND HUMAN RIGHTS

Under the 1999 Constitution, human rights are hierarchically structured with the dominance of civil and political rights over social, economic, and cultural rights. Civil and political rights are classified as "fundamental rights" whose violation can be challenged in court (Falana 2004, 9). Specifically, Sections 33–42 of the constitution recognize political and civil rights that include the right to life, personal liberty and dignity, the right to fair hearing, freedom of expression, the right to privacy and family life, freedom of movement, freedom from discrimination, freedom of association, freedom of religion, and the right to acquire and own property in any part of the country.

No doubt, the constitution appears to have taken cognizance of the fact that many citizens cannot afford to mobilize the financial resources for securing the enforcement of their fundamental rights. Hence, Section 46(2)(b) of the constitution enjoins the National Assembly to make provisions for “rendering financial assistance” to indigent citizens who may wish to challenge the infringement of their civil liberties. Since the National Assembly has not deemed it fit to enact the relevant law, in the circumstance, indigent citizens have continued to depend on shabby legal services provided by the Legal Aid Council and some human rights organizations on a pro bono basis.

The constitution has however imposed a duty on the state to ensure that the “security and welfare of the people shall be the primary purpose of government.” Accordingly, the material resources of the nation are expected to be harnessed and distributed as best as possible for the common good. Furthermore, the state is required to direct its policy toward ensuring that “suitable and adequate shelter, suitable and adequate food, reasonable national minimum wage, living wage, old age care and pensions, and unemployment, sick benefits and welfare of the disabled are provided for all citizens.” The social, economic, and cultural rights recognized by the constitution cannot be enforced in that the judicial powers of the court shall not extend to “any issue or question as to whether any act or omission... is in conformity with the Fundamental Objectives and Directive Principles of State Policy as set out in Chapter II of this Constitution.”

Besides socio-economic factors that inhibit and limit the exercise of civil liberties by disadvantaged groups and individuals, there are certain derogation clauses in the constitution that tend to justify the violation of human rights. For example, the right to life can be justifiably breached by law-enforcement agents in the course of “suppressing a riot or mutiny.” The right to the dignity of the person is daily violated in police stations where suspects are sometimes tortured to death in the course of investigation. The right to fair hearing before a court or tribunal includes the right to have cases determined “within a reasonable time.” As cases are allowed to drag on in our courts for several years, many citizens have lost confidence in the judicial system. Not unexpectedly, the resort to self-help has increased in recent times.

Apart from the aforesaid derogation, Section 45 of the constitution provides that the right to private and family life, freedom of thought, freedom of expression, the right to peaceful assembly, and freedom of movement can be abridged “in the interest of defence, public safety, public order, public morality or public wealth or for the purpose of

protecting the rights and freedom of other persons.” The danger of such restriction on fundamental rights is that it can be and often is easily abused by the government.

As a result of the intensive struggle waged by the Nigerian people over the years, the state has enacted some social welfare laws, which include the Employees Housing Scheme Act, the National Housing Act, the National Health Insurance Act, the Pension Reforms Act, the Child’s Rights Act, and the Compulsory, Free Universal Basic Education Act. But through the implementation of the neo-liberal economic policy designed by the World Bank and the International Monetary Fund, the social welfare laws have been observed in their breach. For instance, public officers were ejected from some government quarters when they were privatized and handed over to UAC and other core investors. Workers who were declared redundant as a result of the privatization of the economy and bank consolidation and public service reforms were paid meager termination benefits contrary to the provisions of the Pension Reforms Act 2004, which requires that they be paid gratuity and pension for life after they might have served for at least 10 years.

But for democracy to survive in the country, the dichotomy between political/civil rights and social/economic/cultural rights must give way to what has been described as “the fundamental unity of conception, the indivisibility and justiciability of all human rights” (Bhagwatt 1988, xxii–xii). In addition, there has to be a comprehensive social security scheme funded by the government to take care of the security and welfare of all disadvantaged citizens. At the same time, the fundamental objectives and directive principles of state policy have to be made justiciable. Otherwise, the “fundamental rights” enshrined in the constitution will remain the exclusive preserve of the few rich and powerful people in society.

It should be recalled that after relinquishing power as a military head of state in 1979, General Olusegun Obasanjo stoutly defended the allegations of human rights infringement and lawlessness that had characterized military rule in Nigeria. But having been jailed in 1995 on a trumped-up charge of treason by the Sani Abacha junta, General Obasanjo turned around to appreciate the enormity of the crimes against humanity committed by former military dictators. Thus, barely a month after his assumption of the office as president of the republic, Chief Olusegun Obasanjo set up the Human Rights Abuses Investigation Commission (HRAIC) with a mandate to inquire into gross violations of human rights by past governments.

But unlike the Truth and Reconciliation Commission (led by Archbishop Desmond Tutu) established by an act of the South African parliament, the HRAIC was set up by the president under the Tribunal of Inquiry Act. Headed by Justice Chukwudifu Oputa, a retired member of the Supreme Court, the HRAIC received about 10,000 petitions and held public sittings in some major cities in the country. The public hearing of some of the petitions and the extensive coverage of the proceedings of the Oputa Panel by the print and electronic media went a long way to sensitize Nigerians to the evils of military dictatorship.

In the mind-boggling report of the Oputa Panel, cases of indiscriminate arrests, detention without trial, extrajudicial killings, disappearances and political assassinations, seizure of citizens' passports, political victimization, and closure of media houses were well documented to characterize military dictatorship in Nigeria. The report also revealed the lack of respect for the rule of law whereby the government treated court orders with disdain. The panel rightly observed that the culture of impunity became entrenched under successive military regimes that ruled the country.

As the federal government was reluctant to release the report of the Oputa Panel, the Civil Society Forum published and circulated its major findings and conclusions.²⁰ Government was therefore compelled to include the reports as part of the working papers of the National Political Reform Conference. Although a number of the Oputa Panel's recommendations were adopted by the NPRC, it is common knowledge that there was hardly any noticeable improvement in the government's attitude toward the observance of human rights. Neither the report of the Oputa Panel nor that of the National Political Reform Conference was implemented.

EXTRAJUDICIAL KILLINGS

In order to extort money from the public, the police engage in indiscriminate arrests and detention of innocent persons. Motorists who fail to part with their money on demand, as bribes, are sometimes killed on the road. The case of the "Apo Six" in Abuja who were arrested and shot dead for refusing to "settle" the police was so embarrassing that the police authorities publicly admitted that the brutal killing of the five traders and their female companion could not be justified; the suspects in the killings have since been charged with murder. And "accidental" weapons discharge by the police has claimed many victims.

Just like the police, the ethnic militias that have sprung up to address perceived injustice also engage, from time to time, in the brutal killing of “suspects” arrested and held by them in their illegal detention camps. In July 2005, 30 innocent traders were kidnapped at Aba in Abia state by one such group, the Bakassi Boys. While being held, these traders suffocated to death in the tiny “cell” where they were kept. In spite of nationwide condemnation of the barbaric incident, the culprits were not brought to justice. States that operate the sharia criminal code in the northern part of the country set up their own police to enforce the law. Harsh sentences such as caning and cutting of limbs were carried out by the sharia gendarmes, with the federal government unable to halt such rights violations or discuss it meaningfully with the state government.

Some governors set up killer squads for the physical elimination of their political opponents. The existence of such illegal outfits was confirmed by Colonel Kayode Are, the former director-general of the State Security Service during the Senate hearing on politically motivated killings in August 2006. In a pending criminal case, the bail application of the chief of staff of a serving governor was opposed by the Economic and Financial Crimes Commission on the ground that as the head of the governor’s killer squad, he could kill some of the prosecution witnesses! Politically motivated assassinations claimed the lives of Chief Bola Ige, Harry Marshal, A. K. Dikibo, Funso Williams, Ayo Daramola, and other prominent politicians. President Obasanjo tacitly but officially sanctioned violence when he declared that the 2007 general elections would be a “do or die affair” for him and the PDP. Indeed, the elections played out as he declared, with violence, fraud, and manipulations.

MILITARY INVASION OF COMMUNITIES

Following the abduction of seven soldiers at Odi in Bayelsa state in November 1999 by restive youths in the Niger Delta, President Obasanjo ordered a full-scale military invasion of the community. In the process, many lives were lost while several houses were burnt down. The same brutal treatment was extended to Zaki Biam in Benue state in 2001 when a detachment of the army invaded the community. During the 2003 and 2007 general elections, President Obasanjo deployed the armed forces throughout the country under the pretext of maintaining law and order. Together with the mobile police and armed thugs they engaged in the intimidation of voters and the snatching and stuffing of ballot boxes in favor of the PDP.

Those who protested such grave electoral malfeasance were killed or severely injured by the rampaging troops.

TRIAL BY THE MEDIA

The right to fair trial includes the right of suspects to be presumed innocent until proven guilty by the state. The police and other law enforcement agencies in Nigeria appear to hold a contrary view. Hence, upon arrest, suspects are subjected to all manner of abuses that violate the right to the dignity of their persons. The interrogation of suspects is usually accompanied by a high degree of physical and psychological torture. Another disturbing area of our criminal justice system is the parading of suspects by the police. This primitive practice is designed to prejudice the minds of the public, including the trial judges. In 2006, some members of the National Assembly were accused of taking a N55 million bribe from a serving minister. Upon the conclusion of the investigation by the Economic and Financial Crimes Commission, there was a national broadcast by President Obasanjo in which the suspects were accused, tried, and convicted! Because of the status of the suspects, there was a popular condemnation of the resort to trial by media.

Regrettably, the National Assembly took the violation of the right of their indicted colleagues to a more ridiculous extent. Even when the state had announced its decision to arraign the suspects in court, both houses of the National Assembly hurriedly engaged in a so-called public hearing of the serious allegations of bribery and corruption leveled against them. And without the advantage of subjecting the evidence of the witnesses to any cross-examination, the suspects were found guilty and removed from their positions in the National Assembly. As soon as the mock trial was concluded, the suspects were arraigned before the Federal High Court for trial.

ATTACK ON FREEDOM OF EXPRESSION

Notwithstanding that the provisions of the Criminal Code relating to sedition were declared illegal and unconstitutional in 1983, some journalists were charged with sedition for writing stories and reports that allegedly embarrassed the Obasanjo regime. Public meetings and protest rallies convened by civil society organizations were violently dispersed by the police on the ground that the conveners did not obtain a police permit. This was in defiance of the judgment of the Federal High Court, which had declared police permits illegal and

restrained the police from disrupting rallies convened by Nigerians to protest official policies considered inimical to their interest.

On account of the anti-fuel-hike protests embarked upon by the Nigeria Labour Congress, the Obasanjo regime sent a bill to the National Assembly with a view to decimating the labor movement. The bill was passed as the Trade Union Amendment Act 2005. In a country where the law assists professional bodies to collect annual dues from their members, this Act has canceled the automatic deductions of dues from workers' wages, while unions that wish to go on strike are required to seek and obtain the approval of not less than a two-thirds majority of their entire members. It has not, however, succeeded in weakening the trade union.

TOWARD A NEW CONSTITUTIONALISM

Constitutionalism, as Julius Ihonvbere (2005, 15) contends, is a process "for developing, presenting, adopting, and utilizing a political compact that defines not only the power relations between political communities and constituencies, but also defines the rights, duties and obligations of citizens in any society. Essentially, the focus of what we mean by constitutionalism is on two issues: first, the process of constitution making and the extent to which it is popular and democratic; and second, the available openings, institutions, and processes of making the constitution a living document by taking it to the people so that they are in a position to not just have access to it, but that they understand it, claim ownership of it; and deploy it in the defence of their individual and collective rights and the democratic enterprise." However, long years of military rule in Nigeria, as indeed in most African countries, perverted constitutionalism.

At the commencement of civil rule in 1999, it was generally agreed that the constitution imposed on the Nigerian people by the defunct military junta needed to be replaced with a new one as a matter of urgency. But instead of allowing the genuine representatives of the Nigerian people to prepare the constitution, the Obasanjo administration adopted the elitist style of constitution-writing through experts. Twenty-four people drawn from the then three registered political parties (i.e., the Peoples Democratic Party, the All Peoples Party, and the Alliance for Democracy) were assembled into a technical review committee to prepare the new constitution.

The official strategy to avoid a process-led approach to constitution making was decried by Ihonvbere, who noted that "in view of the numerous violent challenges that the Obasanjo government has

faced since May 1999 as well as challenges to the Constitution in the Niger Delta, in some Moslem dominated states in the North over the Sharia Law and by various nationality groups, it is amazing to see such preference for an arrogant and undemocratic political initiative” (Ihonvbere 2005, 32). The technical review committee conducted public hearings in the six geopolitical zones and wrote a comprehensive report. This was followed by the drafting of a new constitution by the committee. However, because the report contained the recommendation of a five year term for the president and state governors, the government rejected it. Thus, the whole process of producing a new constitution was truncated.

When the agitation for the convocation of a sovereign national conference continued in 2004, President Obasanjo responded by setting up the National Political Reform Conference. Although its 400 members were handpicked by government, the plan to foist tenure extension on the nation through the conference failed. Once again, the report of the conference was jettisoned by the government. The last official manipulation of the constitution-making process was carried out through the National Assembly Constitution Review Committee. The entire constitutional amendment bill was thrown out by the National Assembly because it contained the “Third-Term Agenda” of President Obasanjo. Since then, the process of creating a new constitution for the country has been stalemated.

There is the urgent need to commence preparations for a people-driven and process-led making of a new constitution. It is only through that process that Nigerians can produce a constitution that will define the limits of the powers of government, the basic duties of citizens, and the social responsibilities of the government to the people under the rule of law.

CONCLUSION

When it assumed office in 1999, the Obasanjo administration was accompanied by high expectations and optimism on the possibility of advancing the course of human rights, the rule of law, and constitutionalism. However, as documented in this chapter, little was achieved in this regard. A human rights investigation panel (the HRAIC) was established, but its findings and report were never made public or implemented. Similarly, a political reform conference was set up, yet no political or constitutional reform took place. Meanwhile, human rights violations continued unabated, with extrajudicial killings and rampant cases of political assassination. In addition, the rule of law

was wantonly disregarded as court rulings were either ignored or disobeyed, and executive impunity and lawlessness assumed a regular pattern of governance under the Obasanjo administration. Redressing this will require a new constitution-making process; a new constitution that would change the structure of, and power relations in, Nigeria and give primacy to the civil, political, economic, and social rights of the people and the enforcement of such rights.

NOTES

1. Sections 4, 5, and 6 of the Constitution of the Federal Republic of Nigeria, 1999.
2. Section 130 of the Constitution.
3. Section 58 of the 1999 Constitution.
4. (2003) 9 NWLR (PT 824) 104; (2003) 41 WRN
5. (1982) 3 NCLR 166
6. (2006) 16 NWLR (PT 1005) 265 at 455
7. (2001) 17 WRN 1
8. (2003) 3 WRN 100
9. (2005) 2WRN 1; (2004) 18 NWLR (PT 904) 1
10. (2002) 1 WRN 1
11. (Unreported) Suit No: FHC/ABJ/CS/82/2006
12. (2006) 25 WRN 1
13. (2006) 17 WRN 50
14. (Unreported) Suit No: FHC/ABJ/CS/251/05
15. (Unreported) Suit No: CCI/NC/ABJ/KW/03/3/05/M1
16. (Unreported) Suit No: FHC/ABJ/CS/507/04
17. FHC/MKD/CS/01/07
18. (2004) 7 NWLR (PT 871) 63
19. (Unreported) Suit No: CA/A/21/M/07
20. The OPUTA PANEL REPORT, Executive Summary and Recommendations, published by the Civil Society Forum, January 2005.

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Nigeria's Foreign Policy of Democratic Transition and Economic Reforms

Warris Alli

INTRODUCTION

The inauguration of the administration of President Olusegun Obasanjo in May 1999 was a much-needed opportunity for Nigeria to repair its relations with the international community at large and specifically with major powers like the United States, Canada, members of the Commonwealth, the EU, leading African states, and multilateral institutions. These relations, which had already deteriorated under prolonged military rule, had been seriously damaged during the five-year rule of General Sani Abacha between 1993 and 1998 when Nigeria became isolated from the international community. Yet, much was expected of Nigeria because of its wealth in oil, solid mineral, human, and other resources as well as its leadership position in Africa.

As observed by Princeton Lyman, former U.S. Ambassador to Nigeria, "Nigeria's fate is critical to all of West Africa" (Lyman 2004, 1). Nigeria represents hope for all of Africa as well. This was why the emergence of Nigeria from sixteen years of uninterrupted military rule and attendant economic mismanagement into civilian democratic rule in 1999 was widely celebrated. At the same time, Nigeria needed international goodwill and support for the sustenance of its democratization before it could ultimately attain democratic consolidation.

In this chapter, we evaluate the content and critical elements of Nigeria's foreign policy in the Fourth Republic. Nigeria sought to

reposition itself in the global democratic arena and promote its economic interests through a foreign policy premised on promoting democratic transition and economic reforms.

NIGERIA'S FOREIGN POLICY UNDER MILITARY RULE 1983–1999

The long periods of military rule (from 1966 to 1979 and 1983 to 1999) generally left a deep scar on the nation's domestic and external affairs. The short periods of the General Murtala Mohammed regime (from July 1975 to February 1976) and the General Olusegun Obasanjo regime (from 1976 to 1979) were considered periods of great historical significance and achievement in the nation's foreign policy, which was termed activist and pan-Africanist.

During the Second Republic, the anticolonial and anti-apartheid elements in the nation's foreign policy, as well as its pan-African contents, were watered down. Nigeria's foreign policy was also seriously and progressively damaged during the long period of the second military interregnum starting with the December 1983 coup d'état of General Muhammadu Buhari and through the General Ibrahim B. Babangida era (1987–1993) and the General Sani Abacha regime (1993–1998).

The lowest point in Nigeria's international relations was under Abacha, after the ratification by the Provisional Ruling Council (PRC) of the death sentence and the execution on November 10, 1995, of nine Ogoni minority rights activists, including writer and environmentalist Ken Saro Wiwa, just two days after a military tribunal passed them the sentence on November 8. According to Ambassador Mahmoud Yahya (2005, 49), the timing was a fatal blow to the nation's foreign policy. This was at a time when the Commonwealth Heads of State and Government were meeting in Auckland, New Zealand, on November 10, 1995, and against a worldwide appeal for clemency. Following this act, the Commonwealth immediately imposed a two-year suspension on the country on the basis of the 1991 Harare Declaration.

As a result, Nigeria became practically cut off from its traditional allies, with the Abacha regime maintaining limited diplomatic contact with them. In reaction to this, the regime became defiant and adopted a paradigm shift (Saliu and Omotola 2005, 224), by initiating new relationships with the Asian nations of China, North Korea, South Korea, Turkey, Indonesia, and others. Nigeria became a founding member of Development 8 (D8), a group of eight developing

countries, comprising Iran, Turkey, Bangladesh, Egypt, Indonesia, Pakistan, and Nigeria.

However, the Abacha regime continued to contribute to UN peace-keeping in different parts of the world and to support the ECOWAS operations in Liberia. It played a pivotal role in the resolution of the Liberian crisis. The regime was also able to single-handedly intervene in Sierra Leone to reinstate President Ahmed Tejan Kabbah, deposed in a military coup. But despite all this, the regime's role and influence within West Africa continued to suffer decline as it was derided at home for restoring democracy by force in another country, while holding the Nigerian populace under its praetorian vise-grip (Fawole 2003, 208). The regime suddenly collapsed when General Sani Abacha died on June 8, 1998.

General Abdulsalami Abubakar, who succeeded Abacha, inherited a fractured and traumatized nation, isolated from the international community. He immediately embarked on reconciliation at both national and international levels. He freed political detainees and convicts, including General Olusegun Obasanjo, who had been jailed for his alleged involvement in a coup plot. Abubakar revoked all draconian and obnoxious decrees, and he consulted with Nigeria's traditional partners, visiting London, Washington, Paris, and other Western capitals. He also reached out to Nigerians driven into exile by the atrocities of the late dictator. At the same time, the country's constitution was hurriedly revised and promulgated, a revised transition program was introduced, an Independent National Electoral Commission (INEC) was established, and the electoral process was set in motion.

Despite the sudden death, in mysterious circumstances, of Chief M. K. O. Abiola, the incarcerated winner of the June 12, 1993, presidential election, the regime pursued its transition program with single-mindedness. The successful conduct of the transition program and the general elections, in which General Obasanjo emerged victorious, provided the needed foundation for a new beginning for Nigeria and for further reconciliation with the international community.

THE OBASANJO DOCTRINE ON FOREIGN POLICY (1999–2007)

President Olusegun Obasanjo was inaugurated on May 29, 1999. He came into office with a solid credential as a celebrated international statesman who had voluntarily handed over power to a democratically elected government in 1979. Since then, he had played very

important roles in international affairs, becoming the co-chairman of the Commonwealth Eminent Persons Group on Apartheid South Africa and member of the board of Transparency International among several other organizations. There was, therefore, much expectation that he would significantly improve the status of the nation and direct its foreign policy to reintegrate the nation into the comity of nations, pursue rapid socio-economic development, and promote democratic consolidation.

Immediately after his election, even before his inauguration, Obasanjo traveled extensively across the world seeking support and assistance for his government. In response to the successful completion of the transition program, 110 countries were represented by heads of state and governments and special envoys at his inauguration.

In his inaugural speech, President Obasanjo promised to “leave no stone unturned to ensure sustenance of democracy, because it is good for us. It is good for Africa and it is good for the world.” He also called on the world, particularly the West, “to help sustain democracy by sharing with us the burden of debt which may be crushing and destructive to democracy in our land” (Obasanjo 1999).

Obasanjo in setting the tone for his foreign policy noted that the context has changed in a post—cold-war era, and the country would have to leap beyond the continent in its foreign policy agenda. In his inaugural address, Obasanjo noted:

We shall pursue a dynamic foreign policy to promote friendly relations with all nations and will continue to play a constructive role in the UN and the OAU and other international bodies. We shall continue to honour existing agreements between Nigeria and other countries. It is our firm resolve to restore Nigeria fully to the prestigious position of eminence in the comity of nations (Obasanjo 1999).

The first foreign minister of the Obasanjo administration, Alhaji Sule Lamido (1999–2003), also noted that at the domestic level “the consolidation and sustenance of democracy, good governance, respect for the rule of law, commitment to the promotion of human rights resuscitation of the Nigerian economy were the major priorities, while at the international level, the major foreign policy issues that faced the government were the integration of Nigeria into the international community after years of isolation occasioned by military dictatorship, conflict resolution and regional integration (Lamido, 2005, 3).

The Obasanjo regime in its foreign policy thrust sought to redefine the nation's external priorities toward adopting a market-oriented agenda supportive of global capitalism and promotive of liberal democracy.

DEMOCRATIC TRANSITION AND FOREIGN POLICY

The 1999 Constitution, just like the 1979 and 1989 constitutions, had given a set of guidelines for the conduct of the nation's foreign policy in Section 19 of Chapter 2, where the following were listed as major principles of Nigerian foreign policy:

- i) promotion and protection of Nigeria's national interest;
- ii) promotion of African integration and support for African unity;
- iii) promotion of international cooperation for the consolidation of universal peace and mutual respect among all nations and the elimination of discrimination in all ramifications;
- iv) respect for international law and treaty obligations as well as the settlement of international disputes by negotiation; conciliation, arbitration and adjudication, and
- v) promotion of a just world economic order.

While the principles of Nigerian foreign policy in the earlier constitutions carried a lot of political concern for independence and anticolonial and antiracist sentiments, the regime of the Fourth Republic pursued the economic concerns of the era of globalization in what Minister of State Duben Onyia called "economic diplomacy" to attract foreign investment (*Daily Times*, July 15, 1999) and also through the promotion of African integration. However, the issue of democratic engineering posed a challenge to the government. This was why the administration embarked on "the reconstruction of the domestic scene through active engagement of all key actors in the international system in a foreign policy for Democracy Project" (*This Day*, July 16, 2000). However, democracy and indeed any form of governance must deliver tangible economic benefits to the generality of the citizens to be credible and sustainable (Soludo 2005, 13).

Building on the preliminary work already done by General Abubakar between 1998 and 1999, President Obasanjo intensified the reconciliation effort by embarking on shuttle diplomacy. This involved a range of high-level summits and state visits to the United Kingdom, the United States, Italy, Germany, Japan, China, India,

Indonesia, Thailand, South Korea, Iran, Russia, Canada, Ireland, Australia, South Africa, and several other countries totaling almost 100 countries between 1999 and 2002. His travels soon attracted great criticism at home, with some people calling it an abuse of presidential privileges (Saliu 2005, 266).

On the domestic front, the president moved quickly to also mend fences with aggrieved groups and individuals while threatening that “it won’t be business as usual.” He set up the Human Rights Violation Investigation Commission, which came to be known as the Oputa Panel in honor of its chairman, Justice C. Oputa, to investigate past human rights violations. President Obasanjo declared his commitment to democratic governance, rule of law, transparency, accountability, due process in government business, and a war on corruption. As part of the war on corruption, he set up the Independent Corrupt Practices Commission in 2000 and the Economic and Financial Crime Commission in 2004 and signed the Extractive Industries Transparency Initiative. He also launched a very ambitious program of economic reform, built essentially on privatization of public enterprises, promotion of foreign direct investment, and huge investment in social and physical infrastructure. This ambitious program was to be encapsulated in the National Economic Empowerment and Development Strategy (NEEDS) launched in 2004.

All these measures had positive impact on the nation’s international position, and the results were immediate. Many countries returned the president’s visits with equally high-profile visits to Nigeria. Presidents Bill Clinton (in 2000) and George Bush (in 2003) of the United States, Prime Minister Tony Blair and Queen Elizabeth II (in 2002) of the United Kingdom, Jean Chretien, former Prime Minister of Canada (in 2004), Presidents Jiang Zemin (in 2002) and Hu Jintao of China (in 2006), and President Abdurahman Wahid of Indonesia, Nelson Mandela and Thabo Mbeki of South Africa, and John Kuffuor of Ghana were among several other dignitaries who visited Nigeria between 1999 and 2007.

As a result of these exchanges, Nigeria was very quickly reabsorbed into the mainstream of international relations and became active in major international organizations such as the United Nations, the Commonwealth, the Organization of African Unity (OAU) (now the African Union), the Economic Community of West African States (ECOWAS), the G77, and other multilateral organizations. In the OAU (now the AU) Nigeria regained the post of assistant secretary general, which it had lost to Burkina Faso in 1995 (Lamido 2005, 33). In 2004, Nigeria held a policy dialogue with the EU presidency

and substantial agreements were reached on peace, security, governance, and development including HIV/AIDS. In 2005, President Obasanjo became the chairman of the AU.

Remarkably, the country's return to the Commonwealth, within the first month of the inception of the administration, reopened Nigeria's influence and leverage within that organization and also renewed its relations with other member states. The country's successful re-integration into the Commonwealth was highlighted with its election into the eight-member Commonwealth Ministerial Action Group (CMAG) for the first time ever (Lamido 2005, 33). The country successfully hosted the Commonwealth Heads of Government Meeting (CHOGM) in December 2003. Subsequently, President Obasanjo became the chairperson-in-office of the Commonwealth, a position he occupied until he handed it over to the prime minister of Malta in November 2005.

In 2000, Nigeria was elected chair of the G77. President Obasanjo energized the body, which under his chairmanship was able to hold its first summit meeting in 36 years in Cuba (Lamido 2005, 36). This also facilitated discussions between the G8 and five heads of state led by Nigeria representing the G77 during the G8 summit in Tokyo. Nigeria supported the June 2000 Partnership Agreement between 79 ACP states and the EU and also signed the Country Support Strategy with the EU in 2002 on the basis of which the EU provided assistance to the country in key areas like the census, HIV/AIDS, malaria, and poverty eradication, and the 2007 general elections.

Nigeria was elected into the UN Economic and Social Council (ECOSOC), the UN Commission for Sustainable Development, and the UN Human Rights Commission and its Committee on the Protection and Promotion of Human Rights as well as the UN Committee on the Elimination of Discrimination against Women (CEDAW) (Lamido 2005, 33). In line with the administration's anti-corruption agenda, Nigeria got the UN General Assembly to pass a resolution condemning corruption and illegal transfer of funds abroad and the repatriation of such funds to their country of origin.

Within a short time, all sanctions imposed on the country during the Abacha era were lifted. And Abuja, the nation's capital, became the hub of international diplomacy and summitry. Apart from the CHOGM mentioned above, Nigeria also hosted the Roll Back Malaria Summit in 2003, the International Conference on HIV/AIDS in 2004, the Inter-Parliamentary Conference, the 8th All African Games in Abuja in November 2004, the 40th Annual General Meeting of the African Development Bank (AfDB) in 2005,

the Economic Commission for Africa (ECA) Conference of Ministers of Finance, Planning and Economic Development, the International Conference on AIDS and other Sexually Transmitted Diseases in Africa (ICASA) in December 2005, and several others.

Presidents Olusegun Obasanjo, Thabo Mbeki of South Africa, Abdelaziz Bouteflika of Algeria, Abdoulaye Wade of Senegal, and Hosni Mubarak of Egypt were the founding fathers of the New Partnership for Africa's Development (NEPAD), an African initiative and a new framework for the rapid socio-economic development of the continent and the African Peer Review Mechanism (APRM), a unique aspect of the NEPAD, which is to help individual national efforts to promote good governance.

Nigeria, which was elected chair of the APRM Implementation Group, has been at the forefront of efforts to implement the NEPAD agenda. The Ministry of Foreign Affairs facilitated the NEPAD workshop in Zambia in September 2004 as well as the Multi-Stakeholders Dialogue in Johannesburg. Nigeria has also hosted the 3rd Summit of Heads of State and Government of the APRM Forum, and the NEPAD Regional Summit on "Food for All" in Abuja in 2005.

Nigeria's debt burden had become a major problem by the early 1990s. Accordingly, on assumption of office in May 1999, President Obasanjo took on this challenge frontally by initiating various efforts to secure debt relief and concessions from the country's major creditors. He embarked on a global campaign for debt relief for Nigeria and other highly indebted countries. As Foreign Minister Sule Lamido put it, Nigeria was asking for total debt cancellation and not rescheduling (*The Vanguard*, September 19, 1999). Debt relief campaign became a key component of what emerged as Obasanjo's version of economic diplomacy, which also included campaign for foreign investment. While the campaign was going on, the debt grew to \$29.273 billion in 2000, \$30.992 billion in 2002, \$32.916 billion in 2003, and \$36 billion by 2005. Eighty-five percent of this debt was owed to the Paris Club of creditors (Mukhtar 2005, 45).

Many observers had argued that the debt relief campaign was needless and likely to achieve nothing because Nigeria was a relatively rich country that could pay its debts if only it could be more prudent and accountable in managing its resources and income from oil. The president of the World Bank observed that forgiveness is impossible when a creditor knows that either the debtor has the ability to pay but is demonstrating an unwillingness to pay or that its national resources are badly managed. Debt forgiveness, he added, is not an important element in the restoration of economic growth and therefore could

not be regarded as a solution to Nigeria's problem (*The Guardian*, October 18, 1999).

During his historic visit to Nigeria in 2000, President Bill Clinton ruled out the prospect of debt relief for Nigeria, claiming it would not be easy to convince the Paris Club to write off the debts (*Sunday Punch*, August 27, 2000).

Despite these negative responses, the president's efforts slowly began to yield positive results, as one country after another started to give positive assessments. Spain was one of the first countries to cancel Nigeria's debt when in July 2000 it cancelled \$100 million debt. China cancelled African debts totaling \$1.2 billion including that of Nigeria in 2001 (*The Guardian*, March 9, 2001, 1). Canada was to grant a debt forgiveness of \$45 million to Nigeria in 2004. The campaigns ultimately led to the granting of debt cancellation of US\$18 billion by the Paris Club in June 2005 on the payment of about \$12 billion out of the about \$35 billion owed.

This process was finalized in April 2006 with Nigeria's formal exit from its indebtedness to the Paris Club. A similar exit through debt redemption was negotiated and concluded in respect of the country's indebtedness to the London Club. Even though critics have argued that the payment of \$12 billion to the Paris Club was not the best thing for Nigeria and that the creditors were only interested in grabbing from the huge income from a rising revenue from sale of crude oil (Okongwu 2007), the debt cancellation has been widely applauded as a major diplomatic achievement of the Obasanjo administration.

ECONOMIC REFORM AND FOREIGN POLICY

Economic reform was a major policy agenda of the Obasanjo government. Specifically, foreign policy activism was increasingly tied to the objective of improved foreign investment, international trade, and development cooperation and assistance.

The reforms were also aimed at "re-organizing government institutions and changing the reorientation of both government workers and the entire citizenry and by systematically diminishing the size and scope of government control of economic resources, and by simultaneously enlarging the domain of the private sector, and change Nigerian politics fundamentally" (Soludo 2005, 20). Privatization was one of the major elements in the reform, and it received a lot of support from several development partners including the United Kingdom, which provided a grant of £8 million through the DFID to the Bureau for Public Enterprises (*Nigerian Tribune*, February 25, 2003).

To facilitate and enhance the conditions for investment in the country, the president set up the Nigerian Investment Promotion Commission (NIPC) and also established the Nigerian Export Promotion Council. The efforts of regulatory agencies like the EFCC to fight corruption and money laundering; the National Agency for the Prohibition of Trafficking in Persons (NAPTIP); the National Drug Law Enforcement Agency (NDLEA); and the National Agency for Food and Drug Administration and Control (NAFDAC), which successfully waged war on faking and adulteration of drugs, all had salutary effects on the nation's image, providing assurances for investors that the environment was becoming more and more conducive to the growth and development of businesses. Overall, the anticorruption efforts of the government yielded enormous benefits to the country on the international scene. Nigeria is no longer the most corrupt nation according to Transparency International. In May 2007, the United States removed Nigeria from its money-laundering watch list. In addition, a sum of more than two billion dollars was recovered from several countries, particularly Switzerland, from past and current public officials who looted the national treasury.

To further his economic reform agenda, President Obasanjo put in place an "Economic Team" made up of technocrats, with sympathy for World Bank and IMF frameworks. Its prominent members were Minister of Finance Ngozi Okonjo-Iweala; Minister of the Federal Capital Territory Nasir El Rufai; Oby Ezekwesili, who was in charge of the Due Process Office in the presidency; Charles Soludo, who moved over from being Economic Adviser to Governor of the Central Bank of Nigeria (CBN); Chairman of the Economic and Financial Crime Commission Nuhu Ribadu; and Director General of the Debt Management Office (DMO) Mansur Mukhtar.

The team defined the nature and character of the economic reform package and developed the National Economic Empowerment and Development Strategy (NEEDS), which encapsulates all the critical elements of the reform agenda, thus making the reforms more coherent. The four key areas that the program focused on included value re-orientation, poverty reduction, employment generation, and wealth creation (NPC 2004).

NEEDS also assigned crucial roles to multilateral institutions and foreign powers, particularly members of G8, from which a substantial amount was expected to fund the reform agenda. From whichever angle the problems of Nigeria are viewed, according to Soludo (2005, 22), who midwifed NEEDS, "it is the economy, [period]."

Accordingly, foreign policy was focused on those actors that would offer the necessary support for the economic objectives of the administration. Already, the deregulation and liberalization of the telecommunications sector had attracted a lot of foreign investors. This led to a remarkable improvement in the number of telephones in the country, from below 1 million in 1999 to above 38 million by April 2007 and projected to reach 50 million by December 2007 (*This Day*, April 26, 2007).

Other areas that were touched by the reform included the banking sector where the consolidation exercise led to the merger of the country's 89 banks into 25, each with a minimum capital of 25 billion naira. The ports were concessioned, while investment in the agricultural sector went up and industrial capacity utilization rose, even though slowly because of poor power supply. However, efforts to liberalize the oil sector yielded very little success and the character of the economy still remains dependent on oil and externally oriented.

Relations with traditional partners like the United States, the EU countries, and other Western powers should be viewed against this background. All the Western powers enthusiastically welcomed a democratizing Nigeria, of course not unmindful of the huge resources and market that the nation possesses. They all invested in what amounted to massive support in the nation's democratic project. As a result, several Western agencies and foundations, such as USAID, the British Council, the DFID, the Ford Foundation, the MacArthur Foundation, Carnegie Corporation, the Friedrich Naumann Foundation, and the Friedrich Ebert Foundation, were increasingly active in the country, supporting several causes, including development projects and government programs and funding of the activities of civil society organizations and local NGOs. The FBI opened an office in Nigeria in 1999 to work with Nigerian agencies on money laundering and financial crimes. Cooperation in the area of crime fighting increased since the establishment of the Economic and Financial Crime Commission (EFCC) in 2004.

Nigeria's foreign policy also targeted foreign investment, which the president pursued through his shuttle diplomacy to major capitals of the world. Subsequently, Nigeria signed trade and investment agreements with the United States, the United Kingdom, and several other Western powers. Trade and Investment Councils were established with the United States and other countries. All these efforts yielded increased foreign investment in Nigeria, even though a substantial part of those investments in Nigeria were in the lucrative oil

and gas sector of the economy as opposed to sectors more in need, like infrastructure and manufacturing.

The foreign policy of the Fourth Republic is significantly about new forces on the world stage and new dynamics in international relations and the increasing global significance of emerging market nations of Asia (China, India, Malaysia, Indonesia, South Korea, and others) and their impact on Nigeria, whose raw materials and markets are great attractions.

The government signed an Investment Promotion and Protection Agreement (IPPA) with China, India, Malaysia, and several other countries. Even though petroleum still dominates the export trade with those countries, agricultural products such as cocoa, cassava, cotton, and ginger are also growing in importance. Several trade delegations from those countries visited Nigeria, as well as delegations from the United States, the United Kingdom, France, Germany, and several other countries. President Obasanjo visited China three times since 1999—in 2000, 2003, and 2005—and India twice, in 2000 and 2005.

In October 2000, Nigeria took part in the meeting of Chinese officials with ministerial delegations from 44 African states to draw up a program for China-Africa cooperation in economic and social development. At the end of the meeting, a Beijing Declaration was adopted (Chibundu 2004, 48). Nigeria-China economic relations were also enhanced with the establishment in March 2001 of the Nigeria-China Joint Commission on Trade and Economic and Technical Cooperation.

As a result of the economic reforms, there has been a steep rise in the investments of Asian countries, particularly China and India, in Nigeria. The volume of trade rose from less than \$200 million in 1999 to \$1.85 billion in 2003 (*The Guardian*, November 8, 2004, 3) and to almost \$3 billion at the end of 2006 (*Punch*, December 12, 2006). Already, as the world's second largest importer of oil, China needs Nigeria's oil to power its booming economy and has been importing oil from Nigeria since 2003 (*The Guardian*, April 18, 2003).

China also promised to invest up to \$4 billion in the downstream sector of the oil industry (Oduniyi 2006, 36). Meanwhile, China National Overseas Oil Corporation, at a cost of \$2.3 billion, won a 45 percent stake in Oil Prospecting Licence 246 (OPL 246) in Nigeria's deep water oil field operated by Total (Onwubiko 2006, 37). A Chinese company also bought a controlling share in the Kaduna refinery and agreed to invest \$300 million in the

establishment of a new liquefied natural gas plant. During a visit to China in 2005, President Obasanjo and his Chinese host agreed on a plan for strategic partnership between their two countries (*The Punch*, April 15, 2005).

In line with this growing partnership, the Chinese have been helping in the energy sector, providing loans totaling \$2.5 billion for the Zungeru and Mambilla power projects that will generate up to 4,000 megawatts, and in the exploitation of the nation's coal deposits. China Civil Engineering Construction Corporation has been contracted for the reconstruction of the nation's railway system and its conversion to the standard gauge. China also provided a grant of \$200 million in support of the federal government's rural telephony program (*This Day*, August 3, 2004, 6). The federal government also signed a 695 million-naira water contract with the Chinese company Beijing G and M Construction Company Limited for the provision and expansion of water supply in 19 states of the federation and the Federal Capital Territory (*This Day*, October 14, 2005).

Over 400 Chinese agricultural experts are in the country helping to improve agricultural production. Meanwhile, Huawei Technologies Limited has invested \$10 million in the production of herbal medicine in Nigeria. At the same time, the Chinese have placed an order for one million metric tons of cassava chips annually, pledging an additional investment of billions of dollars in the nation's agricultural business. Already by 2006, Nigeria's non-oil export to China hit \$500 million (*The Guardian*, April 26, 2005, 96).

China is also involved in the scientific and technological development in the country. Hundreds of young Nigerian scientists and engineers are being trained in China. A contract for the building and launching of a commercial satellite was signed in December 2004 (*This Day*, December 16, 2004, 4). Said satellite—the Nigerian Communication Satellite (NIGCOMSAT)—was launched on May 13, 2007, several months ahead of schedule.

In general, economic cooperation between Nigeria and China has progressed at a rate higher than expected, putting a lot of pressure on the Nigerian government's ability to meet with the challenges this development presents in practical terms. In this regard, while the government is so ambitious about the future prospects of Nigeria-China relations, expecting a total investment of about \$10 billion from China in the next few years, a lot still has to be done to be able to engage the Chinese in a more mutually beneficial way. The relations have been fueled largely by the economic drive of the Chinese. Presently, while Nigeria operates at the general level,

China pursues a clear set of foreign policy objectives (Bukarambe 2005, 232).

India is another major partner of Nigeria in its emerging international economic diplomacy. India has been a long-term trading partner, with many Indians investing in the Nigerian economy. In fact, by 1999, Indian companies, spread across the entire economy of the country, were said to be Nigeria's biggest employer after the federal government (*This Day*, August 22, 1999). The Indian community in Nigeria is now more than 30,000 strong. There has been a dramatic increase in the volume of trade between the two countries in the last eight years, which now exceeds \$3 billion (Singh 2007, 4). Nigeria exports oil to India and imports a variety of goods therefrom.

Indian companies have been taking advantage of the opportunities offered by government policy in the oil sector to bid for oil blocs in the lucrative but highly competitive offshore deep water area of the Niger Delta region. An Indian company, ONGC Mittal Energy Limited (OMEL), won two lucrative oil blocs: OPL 209 and OPL 285. In addition, Indian Oil Corporation signed a Memorandum of Understanding (MOU) with the federal government on a \$6 billion investment in oil and gas and the building of a refinery to produce 18,000 barrels of oil per day. Another group of Indian businessmen invested \$10 million in steel production in the country (*The Guardian*, September 9, 2004). Another Indian company, Global Infrastructures Nigeria Limited, won the highly competitive and much disputed concession for the Ajaokuta Steel Company Limited (ASCL), the National Iron Ore Mining Company (NIOMCO), Itakpe, and the Delta Steel Company.

Indonesia, Thailand, Malaysia, and South Korea also became active investors in Nigeria in the industrial, agricultural, and solid mineral sectors, among others.

In its drive for greater international economic engagement, Nigeria has also embarked on a strategic partnership with Brazil. As part of this partnership, Nigeria hosted the Africa/South America Summit in 2006.

Thus, an assessment of Nigeria's external affairs between May 1999 and 2007 would reveal that, in addition to the remarkable reconciliation with traditional partners, and in the wake of an economic reform agenda, there has been a remarkable transformation in the country's global profile that has led to an expansion of its international economic relations through the cultivation of new trading partners.

AFRICAN POLICY

In his inaugural speech, President Obasanjo declared that Africa would remain one of the cornerstones of his foreign policy, even though he had a vision of a more global engagement, as we earlier noted. In line with this goal, at its summit in Algiers on July 11, 1999, members of the OAU adopted a document titled "Declaration on the Political and Socio-Economic Situation in Africa," in which African states stressed the need to lay a solid foundation for self-reliance, for human-centered and sustainable development. Out of this came the decision that African countries should establish an appropriate institutional framework to enhance the management of African issues. Subsequently, Nigeria was one of the first African countries to implement this decision by creating a Ministry for Cooperation and Integration in Africa in 1999. Jerry Gana, the first Minister of Integration, was to observe that Nigeria would, henceforth, focus on African integration in its African policy (*The Punch*, January 20, 2000).

The African focus of President Obasanjo was also demonstrated by his active involvement in many critical African issues including the transformation of the OAU to the African Union (AU), the mobilization of support for the adoption of the Constitutive Act of the AU during the Lome Summit in December 2000, and the establishment of NEPAD and APRM as already indicated. The OAU formally transformed into the African Union in July 10, 2002, at the Durban Summit in South Africa.

The current dynamics of the international system dictated the continued relevance of Africa in Nigeria's foreign policy (Adeniji 2004, 36). African issues command global attention. Political crises; intra-state and transborder conflicts; epidemics; HIV/AIDS, malaria, and other diseases; human trafficking; drug trafficking; proliferation of small arms and light weapons, and several problems need multilateral cooperation to manage and resolve. The government responded to this by redefining the content of the nation's African policy, this time focusing more on regional integration, economic cooperation, and collective security.

Integration has always been recognized as a key element in Africa's socio-economic development. In 1991, the OAU signed the Treaty of the African Economic Community in Abuja. Over the past decades, the ECOWAS featured prominently in the nation's economic development agenda. Accordingly, a great deal of attention was devoted to the sub-regional integration program, which was revived in the hope that it would constitute the basis for an improved multilateral system

with a great focus on development issues (Adeniji 2004, 64). The commitment on the part of the Obasanjo administration was demonstrated by the “fast track” approach to the sub-regional integration that President Obasanjo originated at the 22nd Summit of the ECOWAS Authority December 9–10, 1999, and the establishment of a co-prosperity zone with Benin, Togo, and Ghana. This has seen the ECOWAS making giant strides in the development of a \$500 million West African Gas Pipeline (WAGP) project to transport natural gas from Nigeria to these three countries. Progress has also been in the areas of single currency, Trade Liberalization Scheme, Common External Tariff (CET), infrastructural development, and moving the entire integration process forward.

Presently, Nigeria hosts several ECOWAS institutions including the ECOWAS Commission, the ECOWAS Parliament, and the ECOWAS Court of Justice. In line with its commitment to these integration ideals, Nigeria deployed its oil wealth to further its African diplomacy with countries like Ghana, South Africa, and others buying oil from Nigeria at concessionary prices. Nigeria also provided a \$40 million loan to Ghana to help finance its contribution to the West African Gas Pipeline project. Another \$5 million loan was granted to São Tomé to pay for its share of the Joint Venture Agreement with Nigeria. Several other African countries have benefited from Nigeria’s humanitarian, technical, and other economic assistance.

Nigeria joined the Sahel-Saharan Community (CEN-SAD) during the January 2001 summit in Khartoum. This organization now includes some other ECOWAS member states, the Inter-governmental Agency for Development (IGAD), and members of the Maghreb Arab Union. This step would enable Nigeria to benefit from the efforts of the group to “tame the Sahara and utilize it as an agent of integration” (Lamido 2005, 36).

The November 1999 inauguration of the Gulf of Guinea Commission (GGC), 11 years after Nigeria had first proposed it, signposted Nigeria’s new vision of continental and sub-regional economic and security cooperation. Member countries were Cameroon, Gabon, São Tomé and Príncipe, Congo Republic, Democratic Republic of the Congo (DRC), Angola, and Nigeria. In early 2005, the Gulf of Guinea Security Strategy Group was established in collaboration with the United States, the Netherlands, France, the United Kingdom, Norway, Switzerland, and development partners USAID, DFID, UNDP, and EU, to support efforts to stabilize this crucial economic zone of West Africa.

Zimbabwean President Robert Mugabe's controversial elections in 2002, which undermined peaceful and constitutional succession in Zimbabwe, attracted the intervention of President Obasanjo, who deployed his influence to stop the expulsion of Zimbabwe from the Commonwealth at the Coolom, Australia, CHOGM. The association imposed a mild form of punishment which consisted of a 12 month suspension recommended by a three member committee in which Nigeria was a member. The Western powers had wanted to establish linkages between the Zimbabwean crisis and their support for Africa's pet programme NEPAD. Nigeria did play a pivotal role in prevailing on the Western nations from imposing premature sanctions on the country (Lamido 2005, 35).

The development of a post-apartheid policy toward South Africa matured under the Obasanjo presidency. With the setting up of the Nigeria-South Africa Joint Commission in Abuja in 2000, and the subsequent wide-ranging political cooperation and the signing of several agreements on trade, education, investment, police, mining, and so on, the two countries established what is being called a strategic partnership. As a result, South Africa has responded enthusiastically to Nigeria's call, investing in several sectors of the Nigerian economy. Trade between the two countries has expanded, with Nigeria exporting petroleum, while South Africa exports consumer goods, food, tools, pulp, paper, and other products to Nigeria and invests in its retail supermarket and telecommunication sectors.

A new dimension to the nation's African policy was the opening of a new window to the African Diaspora and the increasingly economically significant Nigerian Diaspora. The government appreciated that the African Diaspora community has within it well-trained and competent people who should be cultivated to support the economic development program of the government. In line with this, the government hosted the 6th Leon Sullivan Summit in Abuja to facilitate the growth and expansion of African-American investment in Nigeria and the cooperation of members of the African Diaspora with Nigerian entrepreneurs. Even though the award of public relations contracts to the African-American-owned company Good Works Inc. was criticized by the media (*Nigerian Tribune*, February 20, 2006), there is no denying the need for greater cooperation with the economically significant African Diaspora.

The government facilitated the establishment of the "Nigerians in the Diaspora Organization" (NIDO) and the Nigerian National Volunteer Service (NNVS), both aimed at creating institutional

frameworks for attracting Nigerians in the Diaspora to contribute to the nation's development efforts.

Nigeria has also continued to provide technical assistance to other African countries through the Technical Aid Corps (TAC) scheme. The TAC was established in 1987 as a platform for strengthening intra-African and south-south cooperation. Over the years, Nigeria has deployed over two thousand Technical Aid Corps members to many ACP countries, which have continued to sign up for the program. As of 2004, Gambia had received 363, Zambia 181, Equatorial Guinea 165, Namibia 134, and Ethiopia 100 TAC members (Ministry of Foreign Affairs 2004, 10). In October 2004, Eritrea signed the TAC Agreement, thus becoming eligible to receive volunteers. TAC also provides fellowships, grants, subsidies, and medical supplies to its partner countries.

In addition, the Nigerian Trust Fund (NTF) with the African Development Bank (AfDB) is now worth more than \$500 million. At the same time, through the Commonwealth, Nigeria provides scholarship and other assistance to other Commonwealth countries.

It can be seen from the above that despite domestic resource and political constraints, Africa has remained a major focus of Nigerian foreign policy. Equally interesting is the fact that a democratic Nigeria, championing the cause of democracy, good governance, and economic reform, was a welcome development on the continent.

SECURITY, CONFLICT MEDIATION, AND RESOLUTION

Despite preoccupation with economic matters and the democracy project, the administration continued to contribute meaningfully to the expansion of the frontier of security, conflict prevention, and peacemaking in Africa in line with the principles and objectives of the United Nations and the AU. Conflict resolution and peacekeeping have been key issues in Nigerian foreign policy for decades, and the Obasanjo regime invested enormously in Africa.

At the OAU summit in 1999, President Obasanjo proposed and it was accepted that the year 2000 be declared a Year of Peace, Security, and Solidarity in Africa. At the 4th Extra-Ordinary Summit of the OAU in Sirte, Libya, in September 1999, Nigeria also proposed the convening of a Ministerial Conference on Security and Cooperation in Africa (Lamido 2005, 34). The conference was held in Abuja May 8–9, 2000.

In Liberia, through the efforts of General Abdulsalami Abubakar, Nigeria facilitated the creation of the interim government of Mr. Gyude Brant after bringing Charles Taylor and the rebels to the negotiation table. Under Obasanjo, Nigeria played a crucial role in bringing the 15-year civil war in Liberia to an end, deploying two battalions to serve in the ECOWAS Mission in Liberia (ECOMIL) and subsequently in the UN Mission in Liberia (UNMIL).

Even though the Obasanjo administration was widely criticized at home and abroad for granting asylum to Charles Taylor, his departure from Liberia enhanced the reconciliation process and the implementation of the Accra Agreement, which paved the way for Liberia's 2005 general elections. Nigeria also played a very important role in the elections, providing financial and technical assistance. From these elections Ellen Johnson-Sirleaf emerged as president of Liberia. Nigeria has since continued to provide additional assistance in form of training and manpower. In further appreciation of the role of Nigeria, President Johnson-Sirleaf requested, and Nigeria approved, the release of Major General Luka N. Yusuf, who was the leader of the Nigerian contingent of the United Nations Mission in Liberia (UNMIL), to serve as the chief of army staff for the country (*This Day*, May 26, 2007).

In the Mano River area, Nigeria played a key role in stabilizing the region composed of Liberia, Guinea, and Sierra Leone. When the political crisis in Côte d'Ivoire degenerated into civil war, which led to the division of the country into two—one part controlled by the government of President Laurent Gbagbo and the other part under the control of the rebels, called the Force Nouvelle—Nigeria played a crucial role as the chair of the Ministerial Working Group of the AU on the Côte d'Ivoire crisis. Nigeria's intervention in Guinea-Bissau following the September 2003 military coup in that country helped to bring a quick resolution to the political crisis between President Nino Vieira and the ruling PAIGC and the military. Nigeria also gave a cash donation of \$500,000 as support for the reconciliation efforts in the country (Akinterinwa 2005).

President Obasanjo's personal intervention in the aftermath of a military coup in São Tomé and Príncipe in July 2003 led to a quick resolution of the crisis and the restoration of President Fradique de Menezes to office. Obasanjo also facilitated the adoption of a resolution by São Tomé's parliament, granting amnesty to the soldiers involved in the coup. The president's diplomatic intervention, through ECOWAS, in the succession crisis in Togo following the

death of President Eyadéma, paved the way for the peaceful resolution of the crisis.

The Darfur crisis was one of the most complicated conflicts in Africa in the new millennium. Nigeria was to host the sixth and seventh rounds of the Darfur Talks in Abuja. These talks led to the adoption of the landmark Darfur Peace Accord (DPA) in 2006. Nigeria also contributed troops to the AU Peacekeeping contingent to Darfur. Nigerian Chief of Defense Staff General Martin Agwai was released on May 25, 2007, at the request of UN Secretary-General Ban Ki-Moon and President John Kuffuor of Ghana, chairman of the AU Commission, to serve as the Force Commander of the African Union Mission in Sudan (AMIS), which is a joint operation with the United Nations (*This Day*, May 26, 2007). Nigeria has mediated crises between Ethiopia and Eritrea, in Somalia, in Chad, and in several other African countries.

A major test of the nation's commitment to peace on the continent was presented by the verdict on October 10, 2002, of the International Court of Justice (ICJ) on the Bakassi Peninsular dispute with Cameroon. The ICJ ruling transferred the disputed area to Cameroon. Despite the fact that the ICJ ruling was against Nigeria, the Obasanjo administration painstakingly implemented it, setting up a Nigeria-Cameroon Mixed Commission in 2004 and signing an agreement on the terms for handing over the area to Cameroon and the withdrawal of Nigerian armed forces from it. The Nigeria-Cameroon border was re-demarcated and an agreement to that effect signed in Abuja on May 11, 2007.

Another dimension of the security concerns of the administration involved relations with the Western powers. There was particular concern over the United States' offer to help reorganize the Nigerian military through Military Professional Resources Incorporated (MPRI); the increasing U.S./NATO military presence in the region, particularly in the sensitive and oil-rich Gulf of Guinea; and the plan by the United States to set up an African Command (AFRICOM) to be based somewhere on the continent.

These issues generated heated debate both domestically and across Africa. While the government was not forthcoming on its real position on the issues, and senior military officers, including General Victor Malu, a chief of army staff, openly criticizing government on the matter and eventually losing his position, the fact remains that Nigeria-U.S. military cooperation has continued to grow, with increasing U.S. assistance and cooperation with the Nigerian military.

THE UNITED NATIONS

Nigeria has been very active and involved in the United Nations and other multilateral agencies and organizations. The UN, for its part, has been very active in the promotion of socio-economic development in Nigeria. Apart from involvement in the peacekeeping and other activities of the UN, one major challenge for the Obasanjo administration in the UN is the desire to win for Nigeria one of the two permanent seats in the UN Security Council (UNSC) allocated to Africa as part of the planned reform of the organization.

However, the campaign for the UNSC permanent seat has not been going well. Some key African countries like South Africa, Egypt, and Kenya are also interested; some, like Cameroon and even Egypt, have been openly hostile to Nigeria's bid. Meanwhile, Nigeria and South Africa are working together to ensure that they secure for themselves and each other the two seats allocated to Africa. Speaking on this, the South African Deputy Foreign Minister Aziz Pahad explained why the two countries should work together: "If we don't have a common approach African interests will not be realized" (*This Day*, May 6, 2005).

FOREIGN POLICY ADMINISTRATION

Formulation and execution of the country's foreign policy must be situated in its domestic political and socio-economic environment on one hand and the external milieu on the other hand (Gambari 2004, 5). This is why foreign policy always reflects domestic policies, circumstances, and the prevailing values of the state (Adeniji 2004, 22). This tendency has been reflected in the management of Nigeria's foreign policy under President Obasanjo, who exerted a great influence on the institutional machine for managing foreign policy. Under him the MFA virtually lost its leadership in the formulation and implementation of foreign policy. The president's economic team and other government agencies became more active, particularly on many critical international economic issues, than the MFA. This of course is not a new development. Akindele (1991) had noted that the MFA has not been accorded its rightful place in the conduct of the nation's foreign policy.

The first foreign affairs minister of the administration (1999–2003), Sule Lamido, had no experience in foreign affairs, and was not, therefore, able to exert much influence on foreign policy or establish a clear focus for it, or ensure that the special needs of the MFA in terms

of funding and personnel were met. This weakened the institutional framework for foreign policy.

During the second term, 2003–2007, a career diplomat, Olu Adeniji, was appointed foreign minister. Surprisingly, this did not change the style, content, and direction of foreign policy, even though under Adeniji, the funding of foreign affairs improved marginally. He was also able to resist the plan to reduce staff strength or close down some missions as part of the reform program of the administration. Eventually, some missions (Mexico, Kuwait, Karachi, and Czech Republic) were closed, while new ones, (Bangkok, Dubai, and Shanghai) were opened. Presently, Nigeria has 98 missions worldwide: 44 in Africa; 20 in Asia, the Middle East, and the Pacific Rim; 14 in the Americas; and 20 in Europe.

Nigeria invested enormously in ECOWAS, the AU, and the African Development Bank (AfDB). Yet, it could not influence them much, largely because of the poor administration of foreign policy. It was instructive that the Nigerian candidate, Bisi Ogunjobi, lost the AfDB presidency to a Rwandese in an election that took place in Abuja in 2005. It was a replay of the 1995 scenario when, under General Sani Abacha, Nigeria's candidate Abdullahi Sayid also lost out, to a Moroccan. It was concluded then that the loss was due to the military dictatorship of the time, which discouraged many members from voting for a Nigerian candidate. Nigeria has continued to lose elections for several offices because of lack of proper coordination of efforts in international organizations among various agencies of government with the MFA and the poor performance of the MFA itself.

The redeployment of Olu Adeniji from the Ministry of Foreign Affairs to Internal Affairs in 2006 did not bode well for the nation's foreign policy. He was replaced by the World Bank technocrat, Ngozi Okonjo-Iweala, who was redeployed, to the shock of many, from the Ministry of Finance, where she had registered many achievements including the debt relief granted to the country by the Paris Club. She immediately embarked on the reform of the MFA. But within a month, she resigned her appointment from government, citing personal reasons. The position was quickly filled by the appointment of U. Joy Ogwu, the director general of the Nigerian Institute of International Affairs. Ogwu also began a reform program, which got the approval of the Federal Executive Council in early May 2007, a few weeks before the end of President Obasanjo's tenure.

The substance of the reform included the merger of the Ministry of Cooperation and Integration in Africa (MCIA), created in late 1999, with the Ministry of Foreign Affairs (MFA). The president

brought two think tanks under the control of the MFA: the Nigerian Institute of International Affairs (NIIA) and the Institute for Peace and Conflict Resolution (IPCR). Also brought under the ministry was the Directorate for Technical Cooperation in Africa (DTCA), while the Directorate of the Technical Aid Corps became autonomous.

The reform also affected the structure of the ministry, as its 13 departments were reduced to 8 (see the following list), with three under-secretaries under the permanent secretary.

- Administration
- Policy, Research and Statistics
- Finance and Supply
- African Affairs I
- African Affairs II
- Regions
- International Organizations
- Consular/Immigration/Legal and Treaties and Protocol

A total of 544 members of staff, including 189 foreign service officers, were also relieved of their jobs.

However, these reforms were inconsistent with the general policy orientation of the government at its inception in 1999, when it created the MCIA, which was meant to signal the total commitment of the country to Africa. The transfer of the NIIA from the presidency to the MFA has robbed the presidency of an alternative source of policy advice from the foremost think tank.

Another problem of foreign policy administration was the large number of government officials traveling overseas in a very uncoordinated manner that created the impression of a disorganized government. In fact, some foreign countries have expressed dissatisfaction with the frequent visits of Nigerian officials, their large delegations, and the short notice usually given for their visits.

Due to poor funding, many of the missions were in deplorable conditions, with decaying physical infrastructure. Staff also complained of poor welfare and inadequate working tools. At a time, some mission staff were not paid for months. This of course gives a wrong impression about the country to foreigners who visit the missions and this affected the work of the missions. A foreign mission is a public relations outpost for a nation. According to the *Nigerian Tribune*, "Nigerian missions are bad advertisements for the nation" (*Nigeria Tribune* Editorial, February 20, 2006). As a result of all

the above, while the president ordered that Nigerian visas should be issued within 24 hours of application, it is practically impossible for many missions to comply with this directive.

At the same time, huge resources were deployed to a new campaign: "The Heart of Africa Project," aimed at promoting a positive image of the country worldwide. The Heart of Africa Project was managed by the Federal Ministry of Information and National Orientation, with little or no input from the MFA. This was a wasteful venture based on the erroneous belief that Nigeria's image problem was the result of a lack of correct information. In reality, the nation's image problems emanate from bad governance practices, lack of infrastructure despite the huge income from oil, a high level of corruption in government, abuse of human rights, lack of adherence to rule of law, lack of citizens' welfare, poor security, and generally the failure of the Nigerian state to respond adequately to the socio-economic needs of the people. The criminal activities of some Nigerians abroad are but a small part of the problem. Accordingly, all that is required to improve the nation's image on the international scene is improved quality of governance and delivery of welfare to the people. In addition, managing a nation's affairs internationally is the responsibility of well-trained diplomats and not just information officials.

Equally significant is the fact that the most important foreign policy achievement of the Obasanjo administration—the debt forgiveness—was delivered not by the MFA but by the Ministry of Finance and Obasanjo's economic team.

Largely, the institution of the nation's foreign policy was not properly nurtured under the Obasanjo administration.

CONCLUSION

Foreign policy is considered one of the areas where the Obasanjo administration achieved its most profound success considering the re-integration of the country into the global community, progress in regional integration, debt forgiveness, rise in foreign investment and international assistance, growth in international trade, and also the significant contribution to conflict resolution and peacemaking in the continent.

The character of this foreign policy was shaped largely by a combination of domestic policy orientation and the complex dynamics of international relations in the age of globalization. The economic reform agenda had a large effect on the foreign policy of the Obasanjo

administration, leading to a remarkable rise in economic engagement with China, India, and other emerging Asian markets.

The debate and agitation over the constitutional amendment attempt of 2005 and 2006 meant to give President Obasanjo a third term in office—popularly referred to in Nigeria as the “Third-Term Agenda”—dented the global credibility of the administration. The action was manipulative and undemocratic. The 2007 general elections, which turned out to be a major disaster with large-scale fraud, also negatively affected the profile of the regime and the country.

Significantly, despite the many claims of economic growth, the evidence as provided by the level of unemployment, poverty, decay of physical and social infrastructure, particularly poor power supply, low industrial capacity utilization, and other indicators suggests a lack of development in the eight years of the Obasanjo administration. Accordingly, the material and political dividends of democracy are yet to be felt by the people.

“Dividend of foreign policy,” which refers to the achievement of the goals of foreign policy (Adeniji 2005, 22), could only be reaped when it brings succor to the people. Gambari (2004, 24) observed that a consensus on foreign policy and its success will continue to elude Nigeria because of the asymmetry between the pursuit of essentially conservative economic and political orientation at home and the articulation of radical rhetoric for policies abroad. We can, therefore, conclude that the most important foreign policy challenge for Nigeria is how to ensure that foreign policy truly serves the end of the socio-economic welfare of the people.

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The Masquerade Unmasked: Obasanjo and the Third-Term Debacle

Abubakar Siddique Mohammed

INTRODUCTION

The failed attempt by the former president Olusegun Obasanjo to get the National Assembly to amend the 1999 constitution of the Federal Republic of Nigeria to enable him prolong his stay in power generated intense controversy and unprecedented mobilization, for and against the move, both within and outside the country. The controversy generated by the whole attempt was, however, not new as successive Nigerian military leaders before president Obasanjo have tried to cling to power and failed due to stiff opposition from various civil society groups and even the military. The negative reaction the attempt generated both in Nigeria and internationally cannot be divorced from the country's experience with governance in particular and of Africa in general.

Not long after its independence in the 1960s, the African continent began to experience a wave of the shedding of democracy. One after another, post-colonial leaders jettisoned the representative democracy with which nationhood was attained. This happened even as the leaders were masquerading as democrats. A typical example was President Ahmed Sekou Toure of Guinea. In one of his numerous writings on governance, he affirmed the importance of democracy thus:

There are two ways of governing a country. In the first way, the State may substitute itself for all initiative, all men, and all consciences. At that moment it deprives the people of their liberty of initiative, places

them under conditions, and in consequence passes itself as omniscient by trying to solve general problems and problems of detail simultaneously. Such a State can only be anti-democratic and oppressive. We have adopted the second way and chosen to be a democratic State. (In Busia 1967, 91–92)

Not long after, however, Sekou Toure systematically violated every principle of democracy: the separation of powers among the three major arms of government; the rule of law; accountability; an independent and impartial judiciary; the existence of political parties; the protection of fundamental human rights; a free media; and constitutionalism. Guinea was transformed into a one-party state. The legal existence of opposition was denied, and oppression became the norm. But Sekou Toure's regime was not alone. Virtually all over Africa, democracy was frozen for years. In its stead, the "abandonment of the rule of law, the personalisation of as well as the projection of power by the governing elite allegedly in the name of development became the norm and gradually prepared the ground for the complete erosion of the democratic landscape in such countries as Kenya, Zambia, Cote d'Ivoire and Uganda" (Ibeanu and Egwu 2007, 20–21).

African leaders not only personalized politics, they also transformed it into "a means to acquiring personal wealth and power." Africans had to contend with a dominant trend which saw "those in power and positions of leadership do all they can to keep others out" (Mohiddin 1998, 15). Politics became the struggle for power between those who controlled it and wanted to maintain it at all costs and those who wished to wrestle it away from them and also use it for personal aggrandizement. In those circumstances, the struggle for power became so intense "that every thing else including development was marginalised" (Ake 1996, 7).

As sit-tight African leaders lost legitimacy largely due to their corruption, ineffectiveness, self-interest, and so on, or due to limited resources or other forces beyond their control, they sought other ways to bolster their authority in order to ensure political survival. Some resorted to the use of associating particular events, types of action, deeds, and benefits with mythology and symbolism, which, depending upon the situation, had the power to evoke hostility, satisfaction, reassurance, or support in people's minds (Hayward and Dumbuya 1983, 652). Thus, they not only multiplied the symbolic references to an imagined traditional African style of rule, they adopted titles and nicknames ostensibly to demonstrate the uniqueness of such assumed style. Kwame Nkrumah

became Osagyefo; Sekou Toure was the Commander of the Faithful; Mobutu became “the guide” apart from changing his name to Sese Seko Kuku Ngbendo Wazabanga; Julius Nyerere became Mwalimu, the teacher; Siaka Stevens became Pa Shaki; and Olusegun Obasanjo became “baba” and, later, “father of modern Nigeria.” In the case of Olusegun Obasanjo and Siaka Stevens, it is significant to note that the choice of Pa and Baba was to benefit from the traditional legitimacy accorded to old age in both Nigeria and Sierra Leone. Furthermore, the notion of a Pa or Baba, notes Agyeman Dua, comes with many images and expectations such as “[a] father is forever; you don’t just push your father around; fathers like chiefs demand obedience and are not easily accountable” (Agyeman-Duah 2003, 4). When the notion of “father of the nation” is combined with chieftaincy images, it results in a personality cult.

African leaders are known to weave complex personal relations due to weak institutions. The leader’s role in this context is that of arranging certain services and/or resources in return for political support from his clients. As noted by Nicolas van de Walle, these leaders “use access to state resources to gain the support they could not gain at the ballot box and dispensed large amounts of patronage” (Van de Walle 2001, 117). Peaceful political succession through a well-organized competitive, free, and fair election became an anathema. Only death, natural or otherwise, coup d’état, or insurrection brought about a change of leadership.

Succession-related tensions and open conflicts that have become the hallmark of politics in sub-Saharan Africa are therefore closely linked to the critical role the top leadership plays in managing diverse individuals, groups, and interests in the corridors of power or in *clusters around the state itself*. The task of leaders therefore appears to be to hold together these different elements of the political system through a patron—client relationship (Clapham 1988, 283).

Inherent in this system of weak institutions is chronic instability and insecurity for the clients. The period of succession is quite difficult and crisis-prone, as a change of a leader imposes on the successor the imperative of “building up his own network of power relations, establishing his credentials with the same or a different coalition of interests, and seeking to build personal strength through a direct appeal to the aspirations of his people” (Clapham 1988, 283). This process, if not properly handled, could also spell disaster for the new leader and more so if he is incompetent, as those about to be dislodged may hit back. To deal with the instability engendered by such circumstances, leaders have resorted to the use of violence. This partly

explains the failure of African leaders and regimes to realize one of the cardinal objectives of democracy: the taming of violence.

The attempt at tenure elongation by Olusegun Obasanjo and some state governors in Nigeria was particularly alarming given the intense political struggle waged by various civil society groups, political organizations, and even groups within the security services, which forced the military to reluctantly “embrace” democracy. It is all the more so because ex-president Obasanjo was known to be critical not only of the military in power but also of endemic sit-tightism by African political leaders. His engagement with the civil society through his NGO—African Leadership Forum and membership of Transparency International created the impression in the minds of many, not least his colleagues in the military, that he was a democrat. It was this perception of him and the political configurations in Nigeria in the 1990s that induced the military regime of General Abdulsalami Abubakar to manipulate the transitional electoral process to favor his ascension to power in 1999, for the second time.

But no sooner had Obasanjo been elected than he set in motion the process of undermining state institutions, embracing corruption, and abandoning the rule of law, sequel to his audacious attempt to amend the constitution to pave the way for him to continue in office.

CENTRAL CONCERN

The central concern of this chapter is to explain how president Obasanjo came perilously close to actualizing his ambition of prolonging his stay in power and why he failed. In doing so, the chapter is divided into two parts. The first sketches the trajectory of the whole attempt, how it came about, why it was contemplated at the time it was, and the forces behind the move. It argues that contrary to the perception people had of president Obasanjo, he does not believe in democracy despite his pretensions to it and that four factors provided the context in his attempt to prolong his rule: 1) weak political parties; 2) the purge of the civil service and the security agencies; 3) the corruption of the governors; and 4) the support he received from a powerful section of the organized private sector. The second part of the chapter explains why the attempt failed.

Specifically, the chapter argues that the plan failed precisely because the pursuit of the whole agenda divided the PDP. This division led to a reconfiguration of forces, bringing together elements of all the major political parties who were against the move. This meant that the antitenure elongation group had broken the near monopoly of

resources—particularly, finance and the media—hitherto enjoyed by the forces in support, by virtue of their control of state power. The transition to democratic rule had re-channeled the efforts of the various civil society organizations from fighting military rule to expanding the democratic space, which should have been the logical course of the struggle in the first place.

THE MAKING OF A MASQUERADE

As mentioned earlier, the emergence of president Obasanjo in 1999 as the presidential candidate of the PDP and his subsequent “election” as the president of Nigeria was influenced by the role he was perceived to have played in ushering in civilian rule in Nigeria between 1975 and 1978. After 13 years of military rule, the military administration he led handed over power to a democratically elected civilian government on October 1, 1979. The regime had faithfully and diligently implemented its own program of transition to civil rule. Many African countries were then in the firm grip of either brutal military or one-party authoritarian regimes. Nigeria had given the continent one of its rarest commodities, political plurality. This singular and laudable act of relinquishing power voluntarily transformed General Obasanjo from a military dictator to a statesman. He was even urged to contest for the coveted position of the Secretary General of the United Nations.

From his Otta farm, where he retired to, he led a seemingly patriotic public life. He hardly missed an opportunity to make his views clear on important national issues. Typical of him, his comments on the actions and policies of successive governments were quite often scathing. The nongovernmental organization he formed, the African Leadership Forum, organized series of seminars on the challenges confronting African countries: the problem of leadership, the lack of democracy, insecurity, economic transformation, good governance, and so forth. Eminent scholars, retired public servants, retired military generals; business leaders from all over the world were participants at the seminars and brainstorming sessions. The African Leadership Forum received generous grants from sponsors.

His pronouncements on democracy and his activities since he left office might have convinced those who engineered his second coming that he was capable of steering Nigeria through the turbulent period of transition from military to civil rule. As noted by Herskovits, “...both Nigerians and Washington believed that despite his military background, Obasanjo was a committed democrat who would

reform the country's economy and lay the basis for political liberalisation" (Herskovits 2007, 116). This was not to be. As it turned out, Obasanjo was a "masquerade." In the manner of immediate post-colonial African leaders, he saw himself as a messiah who was to deliver Nigeria from all its evils. Indeed, prevailing conditions in Nigeria in 1999 were propitious for his subsequent actions.

TIGHTENING THE GRIP ON POWER

Military rule did not allow political parties to flourish in Nigeria. On all occasions the military had intervened and taken the affairs of government, they had proscribed political parties. Indeed, the ban on political activities and the formation of political parties was lifted only a few weeks before the founding elections. So the parties that emerged had no deep roots in the population. The few of them that had, such as the Alliance for Democracy, were regionally based and therefore could not satisfy the conditions for registration (which required political parties to be nationally based). Time was also not on their side. In those circumstances, the parties that emerged were essentially "ad-hoc coalitions, with no continuity or unifying programs." The Peoples Democratic Party (PDP), which fielded Olusegun Obasanjo, won the elections because it was favored by the military government of General Abdulsalami Abubakar; some top former military officers such as General Theophilous Danjuma, who contributed generously to his campaign; General Ibrahim Badamasi Babangida; and civil servants from the north who had worked with him such as Alhaji Liman Ciroma, Chief Awoniyi, and Ahmed Joda (all retired federal permanent secretaries), to mention but a few.

So when Olusegun Obasanjo came to power, there was virtually no strong opposition to his rule in the form of organized political parties. Civil society organizations were essentially antimilitary; their activities were mainly directed at fighting for the restoration of civil rule. The sudden death of General Sani Abacha and the decision by the military to hand over power became a political sedative to many of the civil society groups. The international community upon which they had relied for funds in the heyday of their struggle against the military diverted their funds elsewhere on the pretext that democracy had been won. Many political organizations were denied registration as political parties and therefore could not field candidates. While the series of elections that ushered in the new civilian administration were flawed in many respects, they were not vigorously challenged since they were seen as founding elections. The military quitting

power was the strategic objective. The objective was achieved, but the political landscape was barren of strong, healthy opposition parties. The situation was therefore conducive for President Obasanjo to tighten his grip on power. The 1999 constitution operating in Nigeria provided him the perfect tool, as it gives the executive enormous powers.

The first casualty was the security agencies, especially the military, which was already weakened, to some extent disoriented and demoralized by its direct involvement in politics. In one fell swoop, on June 10, 1999, some 53 officers from the army, 20 from the navy, 16 from the air force, and 4 from the police who had held political office during the previous military administrations beginning from 1985 were compulsorily retired. With them also went some top generals and commanders of all three military branches. In September 2000, another batch of 37 military officers was compulsorily retired for "over ambition." A month earlier, 459 officers and enlisted members were redeployed as part of the massive shakeup in the army (the purge continued throughout the first four years of Obasanjo's rule, when General Theophilous Yakubu Danjuma was the minister of defence). Justification for these measures was that they would facilitate the political subordination and professionalization of the military, remove from service the relatively affluent political office holders who by virtue of their affluence could influence decisions in their various units in particular and the armed forces in general, and also nip in the bud conflicts that could arise from the wealth-induced intra-officer jealousies.

While the measures might have helped to reduce or eliminate the potential of those retired as sources of opposition and danger to the new government, it could be said, with the benefit of hindsight, that it emboldened Obasanjo and some of the governors to push for tenure elongation because they did not need to look over their shoulders. The purge also gave teeth to what Obasanjo had earlier said: "all officers of our armed forces must recognise that the ultimate reward for participating or benefiting from coups will be premature or forced retirement from service in the minimum" (*The News*, June 21, 1999, 20).

The police force was similarly cleansed. Between 1999 and 2003, some senior police officers were compulsorily retired. Many other chief executives of federal parastatals were equally removed.

The Petroleum Trust Fund, which had become a major instrument for dispensing large amounts of patronage to the people who *cluster around the state*, was also disbanded. Some permanent secretaries and

heads of parastatals were similarly removed from office. No sooner had he finished with the executive branch than he turned his attention to the few political parties allowed to operate.

THE ALLIANCE FOR DEMOCRACY

African leaders who succeeded in entrenching themselves in power did so partly by destroying rival political parties, either by proscribing or by neutralizing them through all manner of subterfuge. Thus in his drive to consolidate his power, president Obasanjo did not spare the political parties. The first casualty was the Alliance for Democracy (AD). The choice of the party may be understood when one recalls that General Obasanjo was elected the president of the Federal Republic of Nigeria without any political base. In fact, if Afenifere (the Yoruba socio-cultural group whose leaders controlled AD) had had its way, General Abdulsalami Abubakar's military regime would have chosen someone favored by it from the southwest. According to Mohammed Haruna, who was the press Secretary to General Abdulsalami Abubakar,

...an Afenifere delegation led by its leader, the elderly Senator Abraham Adesanya, tried to convince my boss to extend his stay in power beyond May 1999 if Obasanjo was the only viable Yoruba candidate the PDP could field as the largest party in the Fourth Republic and the one most likely to win the 1998/1999 general elections. This was supposed to buy time to groom an alternative to Obasanjo. To his eternal credit, Abubakar declined. (*Daily Trust* 2007, 56)

In the 1999 general elections, the Alliance for Democracy won overwhelmingly in six states constituting the southwestern zone of the country. Obasanjo managed to secure only 1,092,196 of the total votes cast in that zone, against Chief Olu Falae's 4,366,993. In Ogun state, his home state, he secured only 31.17% of the votes, compared to Chief Falae's 69.83%. (See appendix I for results in all states.) The AD seemed to have an unassailable sway in the zone. They had succeeded, through the considerable support they had in the press, to paint Obasanjo as a northern stooge who was bound to do the bidding of his mentors and that if the intention was to assuage the feelings of the Yoruba people over the perceived injustice meted out to them by the annulment of the June 12, 1993, presidential election, it was to Afenifere and the AD that the military should have turned to for a Yoruba presidential candidate. General Obasanjo was seen as

a usurper, as was asserted by Chief Falae after he was defeated in the presidential election:

I was the person the Yoruba voted for, not Obasanjo, he was never the candidate of the Yoruba people. He is not using our slot, he is using the slot of those who put him there. The Yorubas made their choice clear not Obasanjo, it's the slot of those who put him there, we did not put him there. End of story. The belief of Afenifere is that he is not representing us, he is not our choice, he is not implementing our programme... (*Sunday Vanguard* 2001, 14)

The victory of the AD had profound implications for President Obasanjo, whose major preoccupation was to transform the south-west into his political base. This became all the more important as the victory of the AD had meant that he had no base to use as a spring-board in realizing his objective of entrenching himself as the undisputable leader of the country. Determined as he was in the pursuit of his objectives, President Obasanjo set in motion the process of weakening his political opponents and propping up new political actors/clients in the zone. Care was taken to ensure that the new political actors were not those with deep roots in the politics of the First and Second Republics and therefore could not be beholden to Afenifere. There was another political utility to this strategy: its success would strengthen his position within the PDP as he would no longer overly rely on other zones to push his political as well as economic agenda.

SOWING THE SEEDS OF DISCORD

The first step in taming and disorganizing the AD was the appointment of Chief Bola Ige as the minister of power and steel. Ige had lost the AD presidential candidature to Chief Olu Falae under controversial circumstances, given the fact that the "election" was made by a small clique in a secretive meeting in a hotel in Ibadan. The choice inflicted a deep wound in Afenifere and the AD. This for the simple reason that Ige was also deputy chairman of Afenifere at the time the controversial "election" was made by the clique.

Ige's acceptance of ministerial appointment in the Obasanjo administration and his defeat at the presidential primaries of the AD created permanent fault lines and discord within Afenifere and the AD. Ige insisted that Afenifere, a socio-cultural organization, must be separated from AD, a political party. The disagreement within Afenifere over its relationship with President Obasanjo, its relationship with

other Nigerian groups, and the future direction and character of AD eventually had serious consequences for the party. The AD was paralyzed. This was all the more so because Afenifere was holding it by the neck. It was just a matter of time for the factions within the latter to create their own parallels also. Two factions emerged: on one hand was the Ambassador Yusufu Mamman faction, supported by the leading figures of Afenifere with lukewarm support of some AD governors, and on the other was the Alhaji Adamu Abdulkadir's faction, supported by Chief Bola Ige and, behind the scenes, Olusegun Obasanjo. All claimed to be the authentic AD. All attempts to settle the rift failed. The political putrefaction of the party continued. Rival conventions were conducted. Some AD senators—Wahab Dosunmu, Fidelis Okoro, Yemi Yusuf, and Honourable Gbolahan Okuneye—decamped to the PDP. Indeed, in a reply to a letter sent to it by the secretary to the government of the federation, Chief Ufot J. Ekaette requesting INEC to confirm whether there were factions within AD, the Chair of the Commission, Dr Abel Goubadia, replied in a letter dated February 19, 2001, that “the commission holds that at this point in time, there are at least two factions in the Alliance for Democracy” (*National Interest* 2001, 1).

To further compound the division within the AD, and evidence of the involvement of President Obasanjo in the diabolical scheme to wreck the party, Ambassador Yusufu Mamman was made the chairman of the panel set up by the president to review the 1999 constitution. Curiously enough, other members of Afenifere were also appointed to its membership. They were the Secretary General Chief Ayo Opadokun, and Chief Ayo Adebajo. The report they presented deepened the crisis within the party and between it and the Yoruba Council of Elders, an organization that emerged to challenge the supremacy of Afenifere in the west, to the advantage of President Obasanjo. The ulcer had become cancerous.

Thus, within a year of becoming the president of Nigeria, President Obasanjo had succeeded in creating and sealing a division within the Alliance for Democracy. An “authentic AD, the Afenifere AD” and the other AD had emerged. This was brought into the open at a meeting called to form a large party to challenge the sway of the PDP in Nigerian politics. In an answer to a question put to him by a journalist as to whom he was representing, Chief Olu Falae answered thus:

I was mandated by my party, the AD, the authentic AD, the Afenifere AD to reach out to national leaders of the progressive school so that we

could form a formidable progressive party that will be strong everywhere in the country as the SDP was. (*National Interest* 2001, 14)

Such was the damage that the party could not even field a candidate in the 2003 presidential election. Worse still, the new forces Olusegun Obasanjo was cultivating had managed to take over all the states in the southwest with the exception of Lagos.

THE HIJACKING OF THE PDP

While President Obasanjo and the clique around him were fervently undermining any opposition in the southwest, he also set in motion the process of hijacking the PDP with the aim of remolding it in his own image. Signs that the PDP would not escape his sledgehammer surfaced early in his tenure. For example, despite the overwhelming support garnered by Dr. Chugba Okadigbo for the post of president of the Senate, President Obasanjo would not have it. Party insiders and senators later revealed that he wanted a malleable candidate. Dr. Okadigbo did not satisfy that criterion. He could not be easily cowed. To secure the post for Evans Enwerem, his preferred candidate, ex-president Obasanjo and the clique around him engaged in the same corrupt practices he had condemned in his inaugural speech in 1999. In that speech he had observed that

Corruption, the greatest single bane of our society today will be tackled head-on at all levels. Corruption is incipient in all human societies and in most human activities. But it must not be condoned... There will be no sacred cows. Nobody no matter who and where, will be allowed to get away with the breach of all the law or the perpetration of corruption and evil. (*This Day* 1999, 5)

According to Vice President Atiku Abubakar, "President Obasanjo bought over Alliance for Democracy, AD, All Nigerian People's Party, ANPP, Senators in addition to about 40 per cent of the PDP membership to overturn the decision of his own party (PDP)" (Leadership, May 23, 2007, 2).

Having secured the Senate, Obasanjo turned his attention to the party, by encouraging undemocratic practices within it. At the November convention of the party, Obasanjo brought his weight to bear on the emergence of Chief Barnabas Gemade as the chairman. President Obasanjo did not leave anyone in doubt as to whom his candidate was. Chief Gemade was imposed on the party instead

of the popular candidate Chief Sunday Awoniyi, who was one of its founding members and one of those who toiled to convince many influential Nigerians that Olusegun Obasanjo was the right candidate given the tension in the country at the time. Such was the flawed nature of the whole process that the Independent National Electoral Commission, which monitored the convention, could not but point out clearly that

the only irresistible inference deducible from (its) findings and observations is that the manner the results of the election of officers of the party were announced were short of the level of transparency expected from a democratic process. (National Interest December 29, 2000, 14)

Discussions with some PDP senators revealed that President Obasanjo did not want an experienced, strong-willed, and disciplined personality with widespread connection across the country to lead the party. It would be difficult for Chief Awoniyi to do the bidding of President Obasanjo. And typical of Chief Awoniyi, he was critical of the whole exercise as well as the failure of the president to implement the minimum program of the party which was drawn by eminent Nigerians immediately after the elections. Chief Awoniyi disclosed that, since the whole transition program of the Abdulsalami Abubakar administration was short, the party went into the election without a program of its own. A decision was taken to modify and adapt the Vision 2010 program for implementation by the new administration. Series of retreats were organized and a final document and program of action were drawn. The program was never implemented. President Obasanjo said as much when he was re-elected the second time.

The spirited attempt at neutralizing opposition forces even within the party intensified. Not long after the convention, Chief Awoniyi and five others were dismissed from the PDP on the spurious grounds that they were threatening its cohesiveness. Chief Barnabas Gemade was to suffer the same fate. Gemade had complained of President Obasanjo's meddlesomeness in the affairs of the party while stubbornly resisting advice from the party on public policy. An angry President Obasanjo had said at the convention that

Party officials need to be reminded that they are not government officials appointed or otherwise. . . . Party officials must stay away from the day-to-day executive decisions of government once the party manifesto remains the guide for the President. (*New Nigerian on Sunday*, June 10, 2001, 3)

But the irony was that he never respected the manifesto and the program of the party. Nevertheless, by the time the convention closed he had succeeded in removing Chief Gemade. No election was held. His successor Audu Ogbe was handpicked. This undemocratic process had the support of some leading members of the party. As was noted by Mohammed Haruna:

In typical Nigerian fashion, most of the leading party members—notably Deputy Senate President, Alhaji Ibrahim Mantu, who said it was the sole prerogative of the president to pick the chairman of his party, and Professor Jerry Gana, who said consensus and not election was the best form of democracy—had pitched their tents on the president's side. (*Daily Trust*, May 9, 2007, 56)

It was not too long before Audu Ogbe also suffered the same fate. In his own case no convention was organized; rather, state security agents were enlisted to force him to submit his letter of resignation.¹

THE FINAL ONSLAUGHT

No sooner than Audu Ogbeh was sacked than president Obasanjo bestowed a former army colleague, Colonel Ahmadu Ali, to the chair of the party. Like him, all other officers of the party (PDP) were appointed. The next move was his diabolical attempt to rid the PDP of people he considered not loyal to him and, as we pointed out earlier, in order to recreate the party in his own image. In a move tantamount to dissolving the party, all members were ordered to reapply for membership. President Obasanjo also made sure that the re-registration exercise was carried out by his loyalists. For example, in Adamawa state, his staunch supporter, Senator Jibril Aminu, aided by Brigadier General Buba Marwa,² was put in charge of the exercise. Aminu and Marwa in turn ensured that Vice President Atiku Abubakar and his supporters were not registered. The situation was the same in all the states of the federation. By frustrating and kicking out top leaders of the party perceived to oppose his desire to continue in office, President Obasanjo and the clique around him hijacked the party apparatus at both the state and the national levels.

Their control of the party had triple significance. First, it ensured that delegates to the PDP convention, which was to ratify his “coup” and the imposition of officials, were his loyalists. Second, it ensured that PDP legislators who had not demonstrated sufficient support or

any inclination for his third-term bid were intimidated. They were told that they would not be given a “return ticket.” Third, it meant that effective structures had been put in place to work hand-in-hand with the Independent National Electoral Commission (INEC) to rig the 2007 general elections.

THE THIRD-TERM DEBACLE: CHRONOLOGY OF EVENTS

Having paralyzed all the major political parties and recreated the PDP in his own image, President Obasanjo set in motion the process of amending the 1999 Constitution to enable him to continue in office. In discussing the attempt by president Obasanjo, the clique around him, and some state governors to change the 1999 Constitution of the Federal Republic of Nigeria in what is popularly known as the Third-Term Project, it is necessary to note that there is the demand in Nigeria for constitutional reforms for various reasons. As with any constitution, in the course of its operation certain provisions have come under serious scrutiny. It has also been argued that the 1999 Constitution was “a product of exigencies—a mismatch of the 1979 and still born 1995 Constitution” (Lar 2007, 4). Capitalizing on these demands, president Obasanjo created an all-party committee in 2000 to tour the country and collate the views of various groups and individuals on the issue. The report was submitted to the president, who passed it to the National Assembly. Nothing came out of it. In 2001 the National Assembly also set up the Haruna Abubakar and later Nasiru Mantu joint committee of the Senate and House of Representatives in liaison with the executive branch to repeat the same exercise.

As noted by Honourable Lar, this committee “became so obsequious in doing the bidding of the Executive arm that any vestige of popular approval or credibility was thrown to the wind” (Lar 2007, 5). The Mantu Committee spent over N1 billion but did not give any report. Rather, it suspended work until after the 2003 elections. By then rumors were making the rounds to the effect that the president who had initially been averse to any constitutional amendment had made an about-turn for the simple reason that he had come to see it as a means to achieve his objective of tenure elongation. While the Mantu Committee was in a political coma, president Obasanjo assembled another committee headed by Alhaji Ahmed Mohammed Makarfi, then Governor of Kaduna state, to examine the issue. Other members of the committee were Governor Olusegun Agagu, Senator

Udoma Udoma, Professor Jerry Gana, Chief Cornelius O. Adebayo, Professor A. D. Yahaya, Professor Okwudiba Nnoli, and Professor Joy Ogwu. The constitution of the committee and the way it commenced work were shrouded in secrecy. This gave credence to the speculation that the Third-Term Agenda had progressed to another level. In reaction, the chair requested the president to inaugurate the committee officially. This was done on December 7, 2004. By then the press had already released the names of the members of the panel. At the end of its work, the committee recommended for the convocation of a Political Reforms Conference.

Amid controversy, the president inaugurated the 400-member National Political Reforms Conference in February 2005 with Justice Niki Tobi of the Supreme Court of Nigeria as the chair. The conference took off despite the fact that the National Assembly did not appropriate any funds for it. As noted by Honorable Lar "...regard was not given to the necessity to guarantee that the recommendations of the confab, even though unpalatable, should be respected and acted upon by those in power." There was also no act of the National Assembly "establishing the conference specifying its status, the duration, term of reference and to having the recommendations subjected to a referendum that would have placed the seal of credibility and legitimacy on such recommendations" (Lar 2007, 5)

THE CAT IS OUT OF THE BAG

In the course of the proceedings of the confab, a surreptitious attempt was made by the clique around president Obasanjo to influence the outcome of the conference by circulating to members a "draft constitution." The draft contains an amended version of section 135(2) of the 1999 Constitution, which specifies the tenure of office of the president. Specifically, the section states, "Subject to the provisions of subsection (1) of this section, the President shall vacate his office at the expiration of a period of four years commencing from the date, when—

- (a) in the case of a person first elected as president under this Constitution, he took the Oath of Allegiance and the oath of office; and
- (b) in any case, the person last elected to that office under this Constitution took the Oath of Allegiance and the oath of office.

The version smuggled into the conference reads thus: “Subject to the provisions of subsection (1) of this section, the president shall vacate his office at the expiration of a period of six years commencing from the date when:

- (a) in the case of a person first elected as president under this Constitution, he took the Oath of Allegiance and the oath of office; and
- b) in any other case, the person last elected to that office under this constitution took the oath of allegiance and oath of office or would, but for his death, have taken such oaths.

This attempt generated tension not only at the confab but throughout the country. In their attempt to quell tension, the president’s men—Professor Jerry Gana and Chief Kanu Agabi, who participated in writing the “draft constitution”—argued that it originated from the All-Party Constitutional Review Committee, but they could not convince many a Nigerian, for various reasons. To start with, even before the commencement of the confab there was general suspicion in the country about the intentions of the president Obasanjo and his clique. The talk of “hidden agenda” had already permeated the society. The appearance of the “draft constitution,” with the contentious revisions cited above and its underhanded manner, could only heighten tension. The denial by the secretary to the confab that the “draft constitution” was circulated by its secretariat, and also the denial by the members of the judiciary and legal reforms committee that they had been given copies, contrary to claims by the president’s men, did not help matters. Finally, Clement Ebiri, chair of the All-Party Constitutional Review Committee, was reported as having said that the content of the “draft constitution” had only faint resemblance to the work of his committee, which was never made public anyway. And in an interview he granted the *Vanguard*, Chief Ebiri said:

We never recommended a six-year single term for executive office holders, rather we recommended a five single non-consecutive term for executive office holders...our thinking was that by our track record, holding election was always controversial and we thought that is one of the ways of minimising the difficulties and this way off course before the 2003 general election which surpassed others in electoral abuses, and so were mindful of people extending their tenure in office. (*Vanguard*, April 22, 2005, 2)

The 215-page draft with 341 sections in contrast to the 1999 Constitution which is a 160-page document with 318 sections could not be said to be an input into a national conference on constitutional reforms.

But why the apprehension given the fact that the “draft constitution” contains “a clear proviso that anyone who has completed two terms under the current Constitution is not qualified to stand for fresh election into the proposed single term of six years” (*Vanguard*, April 22, 2005, 1)? The answer lay in the fear that,

like the all-party report from which the draft constitution purportedly emanated, the presidency may equally appoint its own men to ‘doctor’ the recommendations of the national political reform conference to produce a document that has little or nothing to do with the actual talks now going on in Abuja. And it will certainly be easier for the presidency to manipulate its way through when such a document comes in the form of a draft constitution. (*Vanguard*, April 22, 2005, 1)

The “draft” was finally rejected by the confab.

COUNTDOWN TO DEFEAT

The report of the Political Reform Conference, which had proposed 110 amendments to the 1999 Constitution, was submitted to president Obasanjo who in turn sent it to the National Assembly for consideration and to commence debate on the recommended amendments. But by then the whole process had been overshadowed by the inclusion of section 135(2) in the sections to be amended. The National Assembly constituted a 72-man joint committee (National Assembly Joint Committee on the Review of the 1999 Constitution), which was further divided into sub-committees to examine the various aspects of the proposed amendments. The attempt to manipulate the whole process began.

Against rule 95 of the Senate, which forbids any presiding officer from heading any ad hoc committee, Alhaji Nasir Mantu, the deputy president of the Senate and arch supporter of the Third-Term Project, was made the chair of the committee. The argument that his closeness to president Obasanjo would influence his handling of the assignment was not heeded. It did not take long for his partiality to become clear, especially on the obligation to conduct public hearings on the issue at hand. Instead of holding the public hearings in state capitals that have over time become the separate

headquarters of the geopolitical zones of the country—Kano for the northwest, Jos for the north-central, Bauchi for the northeast, Enugu for the southeast, Calabar for the south-south, and Lagos for the southwest—the Mantu Committee avoided them because of the strong anti-third-term sentiment in those cities and “for security reasons.” Instead, the hearings were shifted to states whose governors were known to be strong proponents of the Third-Term Agenda—Katsina, Borno, Lafia, Umuahia, Port Harcourt, and Abeokuta. There was massive mobilization of the police in those cities before and during the hearings. In Katsina, the day of the hearing was declared a public holiday. Police and armored personnel carriers were stationed at various strategic locations. Members of the Arewa Consultative Forum (ACF) and other citizens who traveled all the way from Kano to Katsina were stopped at the city gate. The venue of the hearing was transformed into a fortress. It was extremely difficult to gain entrance even with accreditation. In the final analysis, there were more armed, stern-looking policemen at the venue than members of the public. In the town, some few people who tried to demonstrate were murdered in cold blood by the police. In Nassarawa and Borno, state governors and their thugs hijacked the whole process.

At the end of the stage-managed public hearings, the Mantu Committee convened in Port Harcourt to prepare a report that Nigerians were overwhelmingly in support of the Third-Term Project. Mention must be made of the fact that in the course of their deliberations at the meeting an attempt was made by a court bailiff to serve a court order issued by Justice Olasumbo Goodluck to the committee. The bailiff was bundled out of the airport hotel where the meeting was taking place. This led to a walkout by some members of the committee, who included Senator Uche Chukwumerije, Saidu Dansadau, Kanti Bello, Farouk Bunza Bello, and several others, arguing that the committee should have stopped the hearing on account of the court order (*The Punch*, March 2006, 1). They also expressed their displeasure at the manipulation of the whole exercise by the chair. The battle then shifted to the National Assembly for consideration of the merit and drawbacks of the bill.

Africa Independent Television (AIT) and the Nigerian Television Authority (NTA) televised the actual deliberations live. This afforded Nigerians the opportunity to follow developments on the bill, to know the position of their representatives, and, for various groups, to further mobilize support for or against the project. Some pro-third-term senators were actually attacked by their constituents. This,

no doubt, put considerable pressure on the legislators. In a dramatic development, the bill failed to climb through the second reading in the Senate. Senator Sule Yari Gandi, invoking the standing order requesting the Senate president to put the question to the floor as “to whether or not the bill be now read a second time,” meaning whether deliberations on it should continue, the latter obliged. There was an unexplained silence on the side of the hitherto vociferous pro- third-term group. This was repeated twice, and on all occasions the “Nays” carried the vote. This dramatic development brought the whole third-term saga to an end.

But why were all the other clauses slated for amendment also not considered? The reason is rooted in the standing rules of both the Senate and the House that allow for committee reports on the public hearings to be deliberated upon before the clause-by-clause consideration commences. Perhaps if it had been otherwise, some amendments would have been made. But because “tenure elongation was a monstrous child” and because of “the biased, partial inclination of some of the principal officers of the National Assembly, they couldn’t be trusted as such, the baby had to be thrown [out] with the bathwater” (Lar 2007, 11). Important clauses that could have been considered included those dealing with derivation, immunity as it affects public officers, state and local government creation, independent candidature, and funding of the Independent National Electoral Commission.

EXPLAINING THE AGENDA

In explaining the Third-Term Project, one has to take into consideration the psychology of President Obasanjo himself, which is partly linked to the circumstances in which he was released from prison and installed as president within one year by the departing military junta of General Abdulsalami Abubakar. Obasanjo interpreted this sudden transition from prison to power as a pre-destined act, perceived as “God working through him to save Nigeria” and as noted by Ibrahim (2006, 1–10) he believed he “must fix the Nigerian people whether they like it or not.” And if the “Nigerian people are against his plan, God is for his plan.” It was clear that at that important time he had “lost touch with reality and created a cocoon of self-delusion by substituting God for [his] personal delusions of grandeur, self-worth and indispensability.” He tried to justify his wanting to continue in office by saying that “God is not a God of unfinished business.”

The second factor was the strong wall of sycophancy built around him at various stages in his administration. A cluster of sycophantic politicians like Chief Tony Anenih, alias “Mr. Fix-It”; Ojo Maduekwe; Jerry Gana, alias “AGIP” (Any Government in Power); the Aso Rock chaplain, Professor Ogbaje (until he was shown the way out for verbalizing his political ambitions); Senator Ahmadu Ali; Femi Fani Kayode; Andy Uba; and hosts of shadowy figures kept drumming into his ears that he was the best leader Nigeria ever had. These sycophants, especially Femi Fani Kayode and Colonel Ahmadu Ali, were vehemently against any criticism of President Obasanjo’s actions. These political clients created a messianic figure in their benefactor, with a delusion of his indispensability in Nigeria’s political landscape.

The third factor was the role played by the team that concocted the “Nigerian Project.” Some members of this team, partly grouped in the economic team, ostensibly sold the idea to president Obasanjo that to “ensure that Goldman Sachs’ forecast of Nigeria being amongst the world’s 20 richest nations by the year 2025, and the President’s more aggressive Vision-2020 is realised in the least” it is imperative for President Obasanjo to continue in office for a longer time than was envisaged in the constitution. Former President of Singapore Lee Kuan Yew and Mahathir Mohammed of Malaysia were particularly cited as good examples. They further argued that but for the fact that the two held power for the period they did, the economic miracles of their countries would not have been possible. Curiously, in the heat of the struggle for and against the Third-Term Project, the Nigerian market was flooded with Lee Kuan Yew’s book, *From Third World to First*. The other alternative suggested to President Obasanjo, by the same group, was for the PDP to hold on to power for about 20 years to ensure “stability” and “continuity.” President Obasanjo opted for the Third-Term Agenda, which required the amendment of Section 137(1) (b) of the 1999 Constitution, which states: A person shall not be qualified for election to the office of President if—he has been elected to such office at any two previous elections.”

Throwing more light on the objectives of this group, Ibeanu (2007, 9) argues that their plan was to create, in the long term, a new bourgeoisie in Nigeria through a triangular process involving the technocracy, essentially made up of ministers, special advisers, and other top government officials; the private sector; and the “political class”—especially factions of the ruling Peoples Democratic Party and the private sector. Although the Third-Term Project was not the backbone of this new politics, it nevertheless served as the rallying point for the project.

The president of the Manufacturers Association of Nigeria, Charles Ogwu speaking at its 34th Annual General Meeting on November 15, 2005, gave a strong indication that a section of the private sector supported the tenure-elongation move. In a trenchant defense of president Obasanjo and his achievements which qualifies him for a third term in office, Ogwu noted (Daily Trust, November 24 2005, Editorial, p. 1);

President Obasanjo as a leader recorded quite considerable and indeed spectacular achievements. In the process, he has risen to the status of a major African president and leader of considerable international clout, respect and repute. The on-going debate should also focus and contemplate on what Nigeria should do with such experienced and mature human resource in Africa where there are a few statesmen with personal discipline and integrity. Should we perhaps package him in a box or basket and put in on the shelf of retired leaders and seek out a neophyte with whom we should experiment as dictated by our constitution bequeathed by the military?

The above statement impliedly suggests that the constitutional provision on two term tenure for the president should be jettisoned, and Obasanjo given his experience, should be allowed to run for a third term in office. Indeed, the organized private sector consistently supported president Obasanjo in most, if not all, his major initiatives- public and private. At the launching of the Obasanjo private presidential library in 2006, the organized private sector was the largest donor to the library contributing 622 million Naira. A total of 6 billion Naira was realized at the launching (table. 7.2.)

In exchange for all this support, President Obasanjo initiated the formation of a big Nigerian private-sector concern, the Transnational Corporation, popularly known as *Transcorp*, which initially brought together 32 Nigerian business moguls. The company was launched in Aso Rock by president Obasanjo himself on July 21, 2005. Its initial board of directors comprised of prominent businessmen and executives of major corporations and banks in the country.³ The company hoped to raise N40 billion from its initial public offering of stock. It also raised N16 billion through private placements. As if to further cement the relationship between the “technocracy” and captains of the organized private sector, ex-president Obasanjo, through the Obasanjo Holdings Blind Trust, subscribed to 200 million shares in Transcorp when it was incorporated in November 2005. The shares were fully paid for (*Daily*

Trust August 18, 2006). And no sooner was Transcorp incorporated than it set about grabbing public assets in a nontransparent privatization process with the active support of president Obasanjo. As noted by the *Daily Trust* (August 18, 2006) in an editorial:

The President ought to know that even before the newspaper publications made the issue of the ownership of Transcorp a matter for national discourse, most Nigerians, in the safety of their homes and places of work, have marveled at Transcorp's extra-ordinarily good fortune. Nigerians have asked whether it is proper that Dr. Ndidi Okereke-Onyiuke, who is the Director-General of the Nigerian Stock Exchange, umpire and regulator of publicly quoted companies, should also be Transcorp chairman. Not a few eye-brows were raised at the absence of transparency in the sale of NICON-HILTON Hotel; a cultural heritage that sits on one of the world's choicest estate, to Transcorp, a company which, because it has zero experience in the hospitality industry, should not in the first place have bided for it. And now NITEL, where the BPE, in a desperate bid to hand over the telecommunication giant to Transcorp, overreached its own record of dubiety and disingenuousness. Initially, BPE said 51% of NITEL was for sale. After the investors' bids were rejected, BPE decided to have a negotiated sale, only to come out with an announcement that Transcorp has emerged winner of the 71% of NITEL, a substantial remove from the 51% that has been on offer...

President Obasanjo, perhaps as a parting gift to his friends in Transcorp whom he was about to join, wrote off over N7 billion and N2 billion owed the Federal Inland Revenue Services (FIRS) by NITEL and MTEL respectively as value-added tax. Once it became clear that President Obasanjo had opted to sit tight in office, it was not difficult to bring on board many state governors who also desired to continue in office. Some of them began to finance the campaigns for the project. Amending the constitution would have meant their continuation in office. For example, Alhaji Bukar Abba, the ex-governor of Yobe state, openly came out in support of the project. He was quoted as saying

On the issues of tenure in the constitution, we have been divided, with different signals coming from the governors. Well majority of us support the extension on the basis of continuity; on the basis of the devil you know is better than the angel you don't know, on the basis of so far, there are no better candidates than the ones on the seat to complete some of the good things they have started. (*Daily Trust*, February 16, 2006, 1-2)

Governor Bukar Abba was not alone. Justifying the Third-Term Project, Governor Atta of Akwa Ibom said

The people that are waiting have a very good reason to wait because they know that it will be good that this person has been able to start this reform that we never had. How many years have we had independence? We would not dream about those reforms, we could not get debt relief, we could not get the kind of respectability we are now getting in the international community, we could not accumulate the kind of foreign reserve that we are accumulating now.

So, it is even good for him to continue, let us learn a bit more from him before we take over. May be, that is why nobody is jumping to say I want to contest the presidency for the simple reason that if you know something, please continue for a bit longer. (*The Guardian*, February 18, 2006, 8)

This position finally brought to an end ex-governor Attah's ambition to be a presidential candidate, which he had earlier announced on the argument that it was the turn of the south-south to produce the next president of Nigeria. The governor's sudden about-turn may not have been unconnected with the pervading fear of the EFCC that president Obasanjo did not hesitate to unleash on those considered not in support of his tenure-elongation plan.

IMPLEMENTING THE AGENDA

The strategy the proponents of the Third-Term Project adopted was a combination of bribery, intimidation, coercion through the use of state security agencies, and "divide and conquer" using the well beaten path of regional and ethnic chauvinism. More importantly, the major political parties were to be further incapacitated. Major state institutions, civil society organizations, and influential individuals were targeted.

In the National Assembly, apart from intimidation, members were promised financial inducement to support the diabolical scheme. According to Honourable Usman Bugaje,

The people who are canvassing for this (third term), at the National Assembly are making promises. One of them is a return ticket. It doesn't matter the party. They will make sure you return to the National Assembly. They will make sure that you have a choice plot of land in Abuja with N100 million that you will now build a villa of

your choice. If you choose not to go back to your constituency, you can stay in Abuja and enjoy the rest of your life. (*Daily Trust*, February 27, 2006, 1–2 and *This Day*, February 27, 2006, 1–4)

And according to Senator Wabara, those who canvassed members of the National Assembly “eagerly dangle N50 million before each legislator to secure third term” (*Daily Trust*, June 1, 2007).

That some members of the National Assembly were willing to support the bid had to do with the fact that

Some of them are just imposed candidates and they know they do not stand a chance except they go through this kind of process the President is trying to create. That is a breach of the process that will impose them on the people. (*Daily Trust*, February 27, 2006, 1–2)

The police would not allow opposition rallies and meetings. When such meetings were convened, the police were sent to disperse the crowd, quite often violently. A meeting at the Sheraton Hotel Abuja organized by members of the House of Representatives opposed to the Third-Term Project to discuss the issue with elders and opinion leaders—including Vice President Atiku Abubakar, state governors Boni Haruna of Adamawa, Bola Tinubu of Lagos, and Abdulkadir Kure of Niger, former state governors like Segun Osoba of Ogun, and retired Inspector Generals of Police Alhaji M. D. Yusuf and Alhaji Gambo Jimeta, to mention but a few—was dispersed violently by the police. In the process, a handicapped member of the House of Representatives was severely beaten. The meeting had to relocate to the Niger state governor’s guest house in Asokoro, Abuja, where Atiku Abubakar among others addressed it. Hotels, especially those in Abuja, were instructed not to rent out their premises for meetings organized by the civil society groups opposed to the Third-Term Project.

Publications critical of the agenda were confiscated and publishers arrested and detained by security agencies. A typical example of a publication that drew the ire of Aso Rock was *The Lust for Power* by Siddique Mohammed. Eventually the operatives of the State Security Services were ordered to raid the Centre for Democratic Development Research and Training, Zaria, to arrest the author and confiscate the copies. They also raided the offices of the printer, Vanguard Publishers, Barnawa Kaduna, arrested him and carted away all the

copies and his computers and sealed the office. Several civil society activists were arrested and detained.

In the heat of the struggle, Chief of Army Staff General Mathew Luther Agwai, who rarely commented on political issues, came out with the following statement:

We hope and pray that politicians will understand the importance of having this country as one entity. We hope they will not allow their political differences to do anything that will threaten the corporate existence of Nigeria as one united country. (In Mohammed 2006, 62)

This statement could be a thinly veiled threat to those who were against the Third-Term Project; Agwai must have known full well that the statement could not go unnoticed at the time he made it.

At the deliberations in the Senate on the third-term agenda embedded in the constitutional amendment proposal, 38 senators from the north were against the amendment, while 13 were for it. Of the Senators from the south, 32 supported the third-term bid while 12 were against it.

EXPLAINING THE FAILURE

But how does one explain the failure of the attempt to amend the Nigerian constitution as wished by president Obasanjo and the forces around him? This may be explained partly by the fact that, though limited as the democratic practices have been in Nigeria, some progress has been made in the protection of human rights, political participation, and civil rights. Civil society organizations have flourished and are vibrant. Opposition groups have more opportunities than they had before the 1980s. Recall the series of court judgments in favor of free association and the formation of political parties. What this means is that substantially better conditions are in place for all political forces desirous of deepening democracy. Moreover, competitive autocratic regimes allow for some space for the opposition, civil society, some media outlets, the national assembly and international organizations. Nigeria was not an exception.

The specific struggle against president Obasanjo's Third-Term Agenda cannot be divorced, as mentioned earlier, from the

accumulated experience of Nigerians and their resolve in combating “the misguided determination of leaders who have been enjoying power too excessively to accept that they must step aside as and when due” (Jibrin 2006, 3). Prior to Obasanjo’s gambit, Nigerians resisted the attempts by first the Gowon, then the Babangida, then the Abacha military juntas to keep themselves in power.

Although the sudden collapse of the Third-Term Project has been attributed to divine intervention by many Nigerians, including some pro- third-term senators who sat mute when the Senate president put to them the question as to whether the bill be read the second time, one other plausible explanation is that the legislators succumbed to the intense pressure mounted on them across the country. As mentioned earlier, some were physically attacked. Such was the case for Senator Hambagda, who was attacked in Biu. Some received letters of threat from their constituents.

By remolding the PDP in his image and transforming it into a veritable rigging machine in the hands of his handpicked loyalists like Senator Ahmadu Ali, Ojo Maduekwe, Tony Anenih, and a host of others, coupled with the dismissal of some founding members, president Obasanjo unwittingly transformed the “rich maze of networks and political groups that made the party vibrant and rooted in the community” into a formidable force against his diabolical plan. An unwritten common bond was created between these aggrieved members and some state governors like Attahiru Bafarawa, Abdulkadir Kure, Shekarau of Kano, Uzor Orji Kalu of Abia, and Boni Haruna of Adamawa who were also opposed to the tenure elongation for various reasons. The last three were harassed by the EFCC, an important institution in the fight against corruption that was apparently transformed into a tool in the implementation of the Third-Term Agenda.

In the National Assembly a group known as the 2007 Movement, which was against the third term, played no small role. This group, led by Senator Uche Chukwumereje, addressed the media, granted interviews, held press conferences, and placed advertorials in the media denouncing the third term. They also established contacts with groups and individuals opposed to the project.

Long before the Third-Term Project became obvious to many Nigerians, a coalition of over 150 civil society organizations embarked on an extensive review of the 1999 Constitution. They organized advocacy campaigns and came out with some publications. It was therefore not difficult for these groups to see through the machinations of the Third-Term advocates. As a result, they

formed the National Civil Society Coalition against Third Term (NACAT). The main position of the group was that constitutional review must be citizen-led, participatory, inclusive, transparent, and legitimate and must reflect the country's diversity. They condemned the Third-Term-inspired review process as manipulative, self-serving, and directed at illegitimately prolonging the tenure of the president and some state governors. They campaigned vigorously against it.

The Movement for Democracy and Progress (MDP), led by retired Lieutenant Colonel Abubakar Dangiwa Umar, the former governor of Kaduna state, who resigned from the army because of the annulment of the June 12, 1993, presidential election, was also in the forefront of the struggle. The group addressed a series of press conferences, financed many anti- Third-Term publications, and liaised with many groups within and outside of the National Assembly as well as governors opposed to the move. It financed some musical artists to compose songs denouncing Obasanjo and the governors pursuing the Third-Term Agenda. Some of its members were harassed and even detained by the security agencies.

In discussing the failure of the Third-Term Project, mention must be made of three geopolitical groupings: the Arewa Consultative Forum (ACF), the Middle-Belt Forum, and Afenifere. The first was led by the late Chief S. B. Awoniyi. As mentioned earlier, he was a founding and leading member of the PDP before it was hijacked by president Obasanjo and his clique. The ACF engaged in a series of sensitization and mobilization efforts against the project throughout the north. It also established contacts with members of the National Assembly from the north and impressed on them that it was not in the interest of the north in particular and Nigeria in general for the project to succeed. It also presented its position at the public sittings organized on the issue by the National Assembly. In the course of this opposition, Chief Awoniyi almost lost his life. Some assassins broke into his house in the early hours of the morning, attacked him with dangerous weapons, and left him half-dead. He had to be hurriedly flown out of the country for medical treatment.

Mention, however, must be made of the fact that had the Third-Term Project succeeded it would have meant a defeat for the ACF and other northern groups who were then clamoring for a power shift to the north. Many members of the ACF also felt betrayed by president Obasanjo given the support he got from the north in his bid to become president.

The Middle Belt Forum boasted prominent members like General Theophilous Danjuma and Chief Solomon Lar, the first chair of the PDP and a close ally of Vice President Atiku Abubakar. It also included Chief Joshua Dariye, the governor of Plateau, whom President Obasanjo suspended for six months, declaring an emergency in the state, on account of Dariye's failure to stem the tide of religious and inter-ethnic killings that engulfed Plateau for most of his tenure. (Dariye was also arrested in London for money laundering. He jumped bail and came back to Nigeria but was impeached by the Plateau State House of Assembly in controversial circumstances. The money confiscated from him has since been returned to the coffers of Plateau state.) Like the ACF, members of the Middle Belt Forum also believed, rightly or wrongly, that they had been given a raw deal by president Obasanjo. The removal of General Victor Malu as Chief of Staff of the Nigerian Army and the massive military attack on his hometown of Zaki Biam, with its casualties to life and to property including his house, were seen as a declaration of hatred by president Obasanjo toward the Tivs.

As for Afenifere, their main grouse about Obasanjo had to do with his role in the division within its ranks and the Alliance for Democracy, which has been dealt with extensively in this chapter. In addition, there was a groundswell of opposition against the third term agenda in the southwest where Afenifere is based and derives its support. The media, civil society groups and professional associations in the south west mobilized tremendously against the third term agenda. Finally the media, both print and electronic, played a major role in the massive mobilization against the Third-Term Project. The media demonstrated near unanimity in patriotic rally against the project. Some journalists were arrested; some had their materials confiscated by the security agencies; while others mainly in state-controlled media were either fired or harassed. They all demonstrated unshaken resolve to get the voice of the people heard.

CONCLUSION

Olusegun Obasanjo was able, for eight years, to bestraddle Nigeria and lord it over the nation's politics and government with impunity and reckless abandon because of a number of systemic weaknesses in Nigeria's present political setup. The first and most obvious of these weaknesses was the enormous powers vested by the Nigerian constitution and by governmental tradition in the office of the

president. The position of the president carries with it the functions and entitlement of head of state and commander in chief of the armed forces. In other words, the president of Nigeria is not just the head and chief executive officer of the federal government but also the head of the Nigerian state—a role that not only encompasses leadership of the three branches of government but also embodies the totality of the will, corporate being, and destiny of the entire Nigerian nation. The considerable influence of the executive in law-making, its control of the national purse, and its overwhelming role in the formulation and implementation of national development programs, which in Nigeria means the award of huge contracts, could easily be transformed into a veritable means through which a system of patronage is built and over which the president eventually presides. This significant power to reward or sanction can easily create in a leader a false sense of indispensability, as we saw in the case of Obasanjo.

These overarching powers of the presidency in Nigeria have been consolidated for over 30 years by the authoritarianism of military rule that has brooked no opposition and that unified all powers in the office of the commander in chief. Of course, the framers of the Nigerian constitution, in vesting so much power in the office of the president, drew their inspiration from the experiences of the presidential system in the United States of America and from the need to have an executive that can function effectively and take decisions without the belly-aching impediments standing in a Westminster-type of arrangement.

But under an unscrupulous incumbent, the powers vested in the office of president in Nigeria can easily be abused, as apparently occurred under the Obasanjo presidency. This abuse, as we have seen, was made more possible because powers enshrined in the oversight functions of the National Assembly were not effectively and exhaustively exercised by that body. Herein, then, lies one of the basic challenges confronting Nigerian democracy in these opening decades of the 21st century. Put bluntly, this challenge is that of developing and enhancing the institutional capabilities of the legislature in the country to live up to its responsibility of providing effective and comprehensive oversight services on the executive as a means of checking the arbitrariness, the abuse, and the inanities of executive power in Nigeria. If this had been in place, most of the cynical abuses perpetrated by the administration of President Obasanjo could not have been possible or, at the least, would have been easily checked.

APPENDIX I

Table 7.1 The Results of the 1999 Presidential Elections

	<i>States</i>	<i>Olu Obasanjo</i>		<i>Olu Falae</i>		<i>Total</i>
		<i>No: of votes</i>	<i>% of votes</i>	<i>No: of votes</i>	<i>% of votes</i>	
1	Abia	360,823	67.33	175,095	32.67	535,918
2	Adamawa	667,239	78.95	177,868	21.65	845,107
3	Akwa Ibom	730,744	82.73	152,534	17.27	883,278
4	Anambra	633,717	76.06	199,461	23.94	833,178
5	Bauchi	834,308	70.91	342,233	29.09	1,176,541
6	Bayelsa	457,812	75.05	152,220	24.45	610,032
7	Benue	983,912	78.53	269,045	21.47	1,252,957
8	Borno	581,382	63.47	334,593	36.53	
9	Cross River	592,688	67.65	283,468	32.35	915,975
10	Delta	576,230	70.57	240,344	29.43	876,156
11	Ebonyi	250,987	72.56	94,934	27.44	816,574
12	Edo	516,581	75.99	163,203	24.017	345,921
13	Ekiti	191,618	26.85	522,072	73.15	679,784
14	Enugu	640,418	76.64	195,168	23.36	713,690
15	Gombe	533,158	63.13	311,381	36.87	835,586
16	Imo	421,767	57.30	314,339	42.70	844,539
17	Jigawa	311,571	56.79	137,025	43.21	736,106
18	Kaduna	1,294,6	77.25	381,350	22.75	548,596
19	Kano	682,255	75.41	222,458	24.59	904,713
20	Katsina	964,216	80.80	229,181	19.20	1,193,397
21	Kebbi	339,893	66.36	172,336	33.64	512,229
22	Kogi	507,903	51.58	476,807	48.42	984,710
23	Kwara	470,510	71.33	189,088	28.65	659,598
24	Lagos	209,012	12.00	1,542,969	85.00	1,275,981
25	Nassarawa	423,731	70.98	173,277	29.02	597,008
26	Niger	730,665	83.88	140,465	16.12	871,130
27	Ogun	143,564	30.17	332,340	69.83	475,904
28	Ondo	133,323	16.62	668,424	83.35	801,965
29	Osun	187,011	23.53	607,628	76.47	794,639
30	Oyo	227,668	24.71	693,510	75.29	921,178
31	Plateau	499,072	74.22	173,370	25.78	672,442
32	Rivers	1,352,275	86.37	213,328	13.63	1,565,603
33	Sokoto	155,598	43.90	198,829	56.10	354,427
34	Taraba	789,749	90.67	81,290	9.33	871,039
35	Yobe	146,517	47.02	165,061	52.98	311,578
36	Zamfara	126,324	35.87	243,755	64.13	380,079
37	FCT	59,234	59.82	39,778	40.18	99,022
	Total	18,738154	62.78	11,110,238	37.22	29848441

Source: *Vanguard* Vol. 15 No. 477, March 3, 1999, pp. 1-2.

APPENDIX II

Table 7.2 Obasanjo's Private Presidential Library—List of Donors

<i>Donor</i>	<i>Amount</i>
Chief Mike Adenuga	N250 million
Alhaji Aliko Dangote	N211.6 million
Chief Sunny Odogwu	N200 million
Chief Arisekola Alao	N100 million
Obasanjo Holdings	N100 million
Olorogun Michael Ibru	N50 million
The PDPN	25 million
Chief Sam Nwake	N20 million
Dapo Abiodun	N10 million
The Ooni of Ife Oba Okunde Sijuwade	N10 million
Dr. Bayo Kuku	N5 million
Ogun state monarchs	N5 million
Political aides of the president	N2 million
Chief Ernest Shonekan	N1 million
Nigerian Ports Authority	N130 million (\$1 million)
36 state governors	N360 million
The private sector	N622 million
Oil firm majors	N2.6 billion (\$20 million)
Total of the Above	N4.7 billion
Miscellaneous other donors	Different amounts unknown
Grand Total reportedly collected	N6 billion out of a target of N7 billion

Note: Board of Trustees: Ambassador Christopher Kolade, Nigeria's high commissioner to the United Kingdom, as chairman; Mr. Carl Masters, an American as co-chairman; Ogun State Governor Gbenga Daniel; Hon. Vernon Jordan, an American; Mr. Richard Branson, owner of Virgin Atlantic Airline; Dr. Onaolapo Soley, Minister of Finance under the Buhari administration; and, Mr. Jim Ovia, MD/CEO Zenith International Bank. Others include Dr. Iyabo Obasanjo-Bello, the president's eldest daughter and Ogun State commissioner for health and Mr. Nyaknno Osso, the president's librarian-cum-secretary.

NOTES

1. Chief Audu Ogbe's letter to President Olusegun Obasanjo, p. 1.
2. President Obasanjo appointed Brigadier General Buba Marwa the hair Defence Industries Corporation of Nigeria (DICON).
3. TRANSCORP Board of Directors at inception include Ms. Okereke—Onyiuke as the chair, Fola Adoela, former Managing Director of Guarantee Trust Bank plc, Group Managing Director, Odimegwu then of Nigeria Breweries, Aliko Dangote- Chairman, Danogote Group of Companies, Ajekigbe of the First Bank, Tony Elumelu, Managing Director of UBA Plc; Jim Ovia, Managing Director of Zenith Bank, Femi Otedola, Managing Director of Zenon, Tony Ezenma, Chair of Orange Drugs Limited, Funsho Lawal; Adegboyega Olulade, Managing Director and Chief Executive Officer of AdonaiNet and

Nicholas Okoye, Technical Secretary of the corporation and Business strategy Adviser.

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External Actors and Nigeria's Democratic Project: The Case of OSIWA

Nana Tanko and Nana Afadzinu

INTRODUCTION

This chapter addresses the issue of external factors or forces in strengthening Nigeria's democratic process. The focus is on the support of the Open Society Institute (OSI) or the Soros Foundation directly and through its regional foundation, the Open Society Initiative for West Africa (OSIWA), for Nigeria's democratization agenda. The chapter discusses the entry of OSI into Nigeria, its areas of focus, its strategy of engagement in expanding the democratic space in Nigeria, its achievements so far, the challenges faced, and the way forward.

BACKGROUND

By 1999 Nigeria had become a pariah state with regard to support from donor organizations and overseas development assistance (IDEA 2001, 309–11). Political instability, a high level of corruption, and breakdown in law and order under autocratic military regimes such as that of General Sani Abacha and the intermittent forays into democratic governance, discouraged the involvement of external donor organizations in Nigeria. With the transition to democracy and the election of President Olusegun Obasanjo, the promise of a new dawn instilled hope for democracy in Nigeria and inspired several donor

organizations to either expand their frontiers (for the few that still existed in Nigeria) or set up offices (IDEA 2001, 311–12). The Open Society Institute was one such organization, and it set up shop in Nigeria through its regional foundation, the Open Society Initiative for West Africa (OSIWA) in December 2000.

The Open Society Initiative for West Africa (OSIWA) is part of the global network of 32 autonomous foundations founded and supported by the American businessman and philanthropist, George Soros. These nonprofit foundations share a commitment to the advancement of open society. Based on the premise that no one has a monopoly on the truth, an open society recognizes the importance of different views and interests and remains forever open to improvement. In practice, open societies are characterized by the rule of law, democracy, respect for diversity and human rights, free markets, informed citizenry, and vibrant civil society.

Up until 2007, Nigeria was the only country that had an OSIWA country office.¹ The transition to democracy in 1999 presented a golden opportunity to crystallize democracy in Nigeria, a country that remains a critical player within the sub-region and the continent (Soros 2007, 57–58);² OSIWA took advantage of this opportunity. OSIWA believes that it is in a position to add value to the consolidation of democracy in Nigeria by supporting and strengthening civil society in its effort to monitor and demand accountability from government and, on the other hand, build the capacity of government to respond adequately to its people in the area of good political and economic governance.

INVOLVING THE STAKEHOLDERS

One of the criticisms raised against donor organizations' operations in Nigeria was the lack of participation of Nigerians in planning what kind of donor assistance was needed at that time for the consolidation of democracy. As the Institute for Democracy and Electoral Assistance (IDEA) put it, the complaint was that "the idea for democratic sustenance in Nigeria must belong to Nigerians, not to planners in foreign development agencies" (IDEA 2001, 322). OSIWA addressed this shortfall by adopting a participatory method of engagement.

In 2000, OSIWA organized a consultative meeting aimed at identifying critical issues for the emergence of an open society, assessing ongoing program strategies and the institutions involved; identifying the necessary interventions; raising the awareness of the existence of OSIWA; and proposing a program strategy for OSIWA in Nigeria.

This was to ensure targeted interventions that directly address the needs of the people in Nigeria's nascent democracy and as outlined by the Nigerian people. In all, 161 civil society organizations and 201 participants attended the one-day meetings held in Abuja, Port Harcourt, Enugu, and Lagos. At the end of the meetings, the framework for OSIWA's intervention in Nigeria was mapped out and clear areas of need outlined. Priority issues highlighted for immediate attention by OSIWA included the following:

- constitutional review
- transparency and accountability
- participatory governance
- access to justice
- law review and development
- law enforcement sector accountability and civil oversight
- women's participation in politics and public decision making
- engendering Nigerian laws with particular emphasis on the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)
- reducing violence against women
- strengthening the capacity of civil society and related institutions in monitoring elections
- voter awareness
- review of the electoral act
- training of journalists on election monitoring
- weak capacity of civil society including lack of grassroots linkages
- lack of openness and accountability
- crisis of sustainability
- lack of organizational and leadership skills
- the absence of coalitions

Participants highlighted popular participation in the formulation of economic reform policies as one major priority issue on economic reform and on conflict resolution and peace-building. They outlined development of religious laws; citizenship and residency rights; equitable policy on resource control; popular participation in governance; and peace education as the priority areas for intervention. On the subject of the media, the priority issues were the reform of the legal framework for the media; enforcement of ethics and standards; promotion of community broadcasting; promotion of diversity; and the independence of publicly funded media.³

With this, the die was cast for OSIWA's involvement in the democratic process in Nigeria. The subsequent sections in this chapter discuss in detail what OSIWA and its partners have brought to the table in terms of interventions in many of these areas of focus. The heights attained and also the challenges faced are highlighted. There are six main areas of focus:

- constitutional reform
- electoral reform
- transparency and accountability
- women's rights
- access to justice and justice sector reform
- capacity-building for democratic institutions

CONSTITUTIONAL REFORM

Since the inauguration of the Nigerian nation, there have been 10 written constitutions.⁴ "However... none of these Constitutions was initiated or drafted in a genuinely democratic environment" (IDEA 2001, 25). The 1999 Constitution was crafted by the Abubakar military government and handed over to the people without widespread consultations.

The absence of a people-owned constitution in Nigeria remains one of the stumbling blocks to democratic governance. OSIWA therefore partnered with the Citizens' Forum for Constitutional Reform (CFCR) to campaign for the review of the 1999 Nigerian Constitution on the basis of a shared belief that a process-led approach and popular participation of Nigerians are critical to the making of a legitimate Nigerian constitution. In spite of the fact that the main goal (which is to review the 1999 Constitution) has not been achieved, this partnership has recorded some noteworthy successes:

With the support of OSIWA, the CFCR engaged the Presidential Technical Committee on Constitutional Reform at the national level, the level of the six geopolitical zones, and the state level. The CFCR was present and made presentations when the committee presented its draft constitution across the country. Furthermore, with the support of OSIWA, the CFCR engaged the National Assembly Joint Committee on Constitutional Reform. Among other outcomes, these engagements had a positive impact on the provisions of the final draft constitution, with sections such as those relating to security provisions on coup d'état, as well as the draft constitution's use of

simplicity and gender sensitivity, which were directly lifted from the proposals of the CFCR.

OSIWA's support made it possible for the CFCR to organize state conferences in the 36 states and Abuja, dialogues in the six geopolitical zones, and a national conference at which all the views on constitutional reform were harmonized, and which resulted in three major publications: the CFCR Model Constitution; Harmonized Model Constitution; and Training Manual on Democratic Constitution Making, among several other publications.

Unfortunately, the Third-Term Agenda of the executive arm of government halted the passage of the draft constitution.

These are some of the outcomes of the OSIWA—CFCR constitutional reform project during the Fourth Republic:

- The CFCR Model Constitution and the Harmonized Model Constitution were part of the collected literature that the National Assembly Joint Committee in the Fourth Republic utilized to draft the constitution that killed the Third-Term Agenda.
- The Mohammed Makarfi Panel, which set the stage for the National Political Reform Conference (NPRC), acknowledged and referenced the CFCR publications.
- The NPRC acknowledged and referenced the CFCR Model Constitution and the Harmonized Model Constitution as part of the literature utilized as working documents.
- State Houses of Assembly, in particular that of Ogun state, paid a visit to the CFCR secretariat to collect the CFCR Model Constitution.
- The CFCR Model Constitution and the Harmonized Model Constitution are well referenced in national and international literature on constitution-making in recent times.
- Nigerian civil society organizations depend seriously on the CFCR's publications for their constitutional reform advocacy across the country. (CFCR report to OSIWA 2007)

OSIWA's support for this constitutional review process has also put special focus on citizenship and gender issues.

Citizenship

In the period under review, there was an escalation of violence rooted in poorly defined notions of Nigerian citizenship. The problems

associated with Nigerian citizenship have historical antecedents mostly as a result of the colonization process, which lumped together diverse groups with largely incompatible beliefs and practices without conscious attempt at evolving a Nigerian identity. Even after independence, there were no conscious attempts by succeeding nationalist leaders to forge national consensus on the rights of Nigerian citizens. The result is that today, most of the federating units have operated as if they were distinct nations.

The current wave of violence directed at people from different parts of the country is the fallout of this constitutional cloud relating to definition of Nigerian citizenship. More worrisome, though, is the problem arising from the dichotomy between “indigenes” and “settlers.” Discrimination against Nigerians born or living outside the ‘state of their origin’, which is clearly against constitutional provisions relating to the rights of citizens, has persisted and appears to be tolerated by the government and the general public. Thus Nigeria has witnessed several cases of violence inspired by discrimination against non-indigenes, resulting in monumental loss of life and property. Equally worrisome is the lack of a coordinated and consistent approach to dealing with this problem.

In a bid to contribute toward redressing this difficulty, OSIWA commissioned a number of projects aimed at reforming of the constitution with particular reference to the rights of citizens. From 2004, three organizations—the Institute for Peace and Conflict Resolution (IPCR), African Centre for Democratic Governance (AFRIGOV), and Programme on Ethnic and Federal Studies (PEFS)—worked with different segments of the Nigerian population toward enlisting broad national consensus on the content of constitutional provisions relating to rights of Nigerian citizens⁵ (Concept paper: OSIWA National Conference on Citizenship, Nov. 2006).

The major idea behind the AFRIGOV project was to examine why the conundrum of citizenship has remained a challenge to Nigeria’s democracy and how this problem could be addressed through the review of certain sections of the constitutional provisions on citizenship and its attendant rights and privileges. The project was executed through a series of focused activities, which included workshops and consultations with partner nongovernmental organizations (many of which are OSIWA partners), a comprehensive survey of peoples’ knowledge and perceptions of the 1999 Constitution, several workshops on inclusive citizenship, and preparation of technical papers on the issue of contested citizenship in Nigeria.

The IPCR project undertook a content analysis of past government initiatives and policies on citizenship. It also took a more global approach and conducted an assessment of countries with good practices in handling the citizenship problem and used these findings to advocate for reform in Nigeria. The ICPR's approach thus involved an analysis of previous government reports on citizenship, minority rights, and other issues and a comparative analysis of what existed in multi-ethnic societies in countries of North America and Oceania. The constitutional practices of countries like Canada, Australia, and New Zealand were studied to enable a thorough evaluation of how other countries deal with these issues. The object of such comparative work, research, and analysis in conjunction with workshops was to suggest policy and constitutional reform to include the salient issues relating to the various claims of the various peoples in Nigeria. The IPCR also conducted advocacy work to sensitize the major stakeholders in the country on the findings of the studies and action required to address the issues identified and raised.

The main objective of the PEFS project was to crystallize the neglected and unfocused perspectives of the state assemblies on how federalism can be strengthened to resolve the problems of citizenship and to strengthen the role of the state assemblies in the constitutional reform process. The project was thus based in the Niger Delta or south-south geopolitical zone, where the clamor for resource control, local political autonomy, and true federalism has been strongest in the country. The project addressed citizenship contestations in the Niger Delta and interrogated how they could be resolved as part of the constitutional reform process. The activities carried out included a) a comprehensive study of the Niger Delta problems within the framework of Nigerian federalism, b) participatory and interactive reform dialogues in Akwa Ibom, Bayelsa, Cross River, Edo, Delta, and Rivers involving state legislatures and selected civil society organizations that were structured to address specific issues and problems of citizenship, and c) the formulation, documentation, and dissemination of an Action Plan, based on the contributions, conclusions, and communiqués of the policy dialogues.

The culmination of these projects with AFRIGOV, PEFS, and the IPCR was a national conference in 2006 that discussed the findings of the studies and activities. The conference came out with general and specific recommendations for addressing the citizenship issue in Nigeria using other methods in addition to constitutional review. This has informed OSIWA's subsequent interventions on the issue.

The Third-Term Agenda

As part of its fight for democratic consolidation in Nigeria, OSIWA supported civil society's campaign against the "Third-Term Agenda" that sought to extend the tenure of President Obasanjo and the governors. After a flawed process of public hearings on the report of the Joint Committee on Constitutional Reform, a bill was laid before parliament for constitutional amendment. The bill proposed, among other things, the extension of the tenure of the president from two terms of four years each to three terms of four years each. This cleared all doubts, if there were any remaining, of the existence of the Third-Term Agenda. At the first reading stage of the bill there was an extensive debate within the House that centered mainly on the "third term" clause. This debate was broadcast live to audiences within Nigeria by Africa Independent Television (AIT) and also by radio stations around the nation. After the debate, the Senate overwhelmingly voted to prevent a second reading of the bill. This was done by voice vote.

In the months preceding its official presentation in the Houses, however, the Third-Term Agenda greatly affected governance in Nigeria: political debate revolved around the Third-Term Agenda and nothing else, and the business of governance, particularly within the legislature, virtually ceased. The media was inundated with pro- and anti- third-term messages. All other issues played second fiddle; even the fact that Nigeria had succeeded in getting free of its debt was not given much prominence. The polity was polarized. The legislature was divided, as expected; civil society was divided as organized Labour failed to declare a clear stand against the third term and some former high-profile civil society activists within parliament and government apparently "sold out" to the Third-Term Agenda. The media was also divided, and there was harsh criticism against the newspaper *This Day* (which had been one of the main critics of the Third-Term Agenda) when it gave prominence to an advertisement purportedly placed by the private sector, calling for support for the "third term."

Donor organizations hesitated in taking a stand for or against a third term for President Obasanjo. OSIWA, however, decided to take a stand and supported civil society's fight against it. OSIWA therefore supported the Transition Monitoring Group (TMG) and the Electoral Reform Network (ERN), two strong local civil society coalitions, to coordinate civil society's strategy against the third term. Meetings were held and publications and advertisements, both print and electronic, called on the people to stand up against it. Posters

were also produced. The civil society actions gathered momentum and gained the support of anti- third-term legislators.

As noted earlier, by a voice vote, the Senate threw out the whole constitutional amendment bill. Prior to this, the House of Representatives had proposed merely taking out the clause about the third term and going ahead with the rest of the bill, but after the Senate made its decision, the House followed suit and withdrew the whole bill. The Third-Term Agenda was then supposedly killed.

Although the death of tenure elongation could be hailed as a victory for good governance and democratic principles in Nigeria, it also affected the constitutional reform process. By throwing out the whole constitutional amendment bill, the National Assembly essentially “threw out the baby with the bath water.” Many people within civil society, however, viewed the action as necessary to ensure that the needed constitutional reform starts on a new note after the elections and goes through the right constitutional processes.

ELECTORAL REFORM

Credible elections have proven to be an elusive goal in Nigeria's political history. This has been the case for a number of reasons:

- the stolen mandate of the electorate and the subsequent apathy of the electorate
- the lack of independent law enforcement agencies
- the absence of a credible voters' register
- a weak and fairly obscure legal framework
- poor electoral administration
- the persistent exhibition of electoral violence
- inadequate logistics
- the gross underrepresentation of women
- considerable government interference skewed in favor of the incumbent

However, good and credible electoral governance remains key to the consolidation of democracy, and efforts to achieve this in Nigeria have continued in spite of the numerous challenges.

OSIWA supported several initiatives around elections in Nigeria at various levels for both the 2003 and 2007 elections. The 2003 elections work supported the participation of civil society organizations in the electoral process through monitoring of the various electoral activities leading up to the elections, such as the political

party conventions and nomination processes, the voter registration process, and general voter education as well as affirmative action for increased women's participation in politics. It also supported electoral reform advocacy on the Electoral Act. OSIWA consolidated on this work further in 2007 specifically by supporting the building of a national movement for credible elections, voter education for mandate protection, strengthening civil society participation in the electoral process, strengthening the capacity of grassroots female politicians in Nigeria for active participation in the new democracy using mentoring and peace-building approaches, capacity-building intervention project for women's political participation in Nigeria, and curbing election-related violence in the country. This complemented sensitization and advocacy on the implementation of the 2006 Electoral Act.

Apart from strengthening civil society participation in the electoral process and widening the space for women's political participation by engendering the interest of more women in participating in the process and building their capacity, one major achievement of OSIWA and its partners was the formation of the Alliance for Credible Elections (ACE), which aimed at building a national movement for credible elections and succeeded in doing so within a short time and indeed becoming a force to be reckoned with. For the first time in the history of elections in Nigeria, ACE succeeded in bringing together all the key stakeholders in elections and other nontraditional segments of civil society on one platform and helping them to speak with one voice calling for credible elections. ACE was a unique conglomerate consisting of major groups like the National Labour Congress, the Nigerian Bar Association, the Nigerian Medical Association, the Transition Monitoring Group, the Electoral Reform Network, the Christian Association of Nigeria, the Nigerian Supreme Council for Islamic Affairs (NSCIA), the Muslim League for Accountability (MULAC), the National Association of Nigerian Students (NANS), the Civil Liberties Organisation (CLO), the National Union of Road Transport Workers, Okada (Motorcycle) Riders Association, Market Women Associations, and Women for Representative National Conference (WORNACO).

JUSTICE SECTOR REFORM AND ACCESS TO JUSTICE

Access to justice and the assurance of an equitable justice system that guarantees fundamental human rights and provides security for the

individual is an important aspect of a strong democracy. Five challenges have been highlighted as key to the administration of justice in Nigeria (PCAJN report 2006):⁶

- Providing equal access to justice and a user-friendly system of justice
- Responding to the issue of delay in the administration of justice
- Making the justice sector's public service efficient, competent, and able to respond to the demands of a new constitutional order
- Implementing the constitution, particularly the provision on human rights
- Adapting to change, especially to democracy

OSIWA's collaboration with partners cut across all the different areas within the justice sector—mainly prisons, the police, the judiciary, federal and state justice institutions, and the legislature. The partners have included both nongovernmental and government institutions.

The projects supported by OSI/OSIWA have included legal assistance to pre-trial detainees or inmates awaiting trial in eastern and southeastern Nigeria; provision of legal aid to and skills training and rehabilitation of female prisoners in five states of southeast Nigeria; institutional and practical strategies for prison decongestion in northern Nigeria; penal reform through litigation and monitoring; a citizens' rights expansion project in Lagos state that focused on employment and training of lawyers, clerks, reporters, and interpreters; publication of brochures and flyers about the Citizens Mediation Centre (CMC) and the Office of the Public Defender and organization of seminars, clinics, and roundtables in local government council headquarters on use of CMC; research on plea bargaining and advocacy for its introduction into Nigeria's criminal justice system; support for the National Working Group on Prison Reform and Decongestion; and training of Superior Court justices on human rights issues with a focus on women's rights.

In 2006 OSI directly supported the Presidential Commission on the Reform of the Justice Sector in Nigeria. The commission was mandated to develop a strategic plan for the global reform of the administration of justice in Nigeria⁷ (National Policy on the Administration of Justice), propose modalities for the improvement of the welfare of the personnel of the justice sector, craft a legislative framework for the protection of the victims' rights, and make any other recommendations they deemed fit for strengthening the justice system, human

rights, and the rule of law. The Obasanjo administration adopted certain key recommendations of the commission and noted some of them for further action. Very few of the recommendations made were declined.

OSIWA also worked with partners in providing general legal aid not only to prisoners but to the indigent in various communities across the country. Tackling the perceived corruption and impunity of the police sector and corruption within the judiciary are key areas of focus. In the area of law reform, OSIWA supported the drafting of and advocacy for the passage of several bills including the Budget Bill, the Independent National Electoral Commission Bill, the National Human Rights Commission Bill, the Prisons Act Bill, the Public Petitions Bill, the Victims' Rights Bill, and the Anti-discrimination Bill. All these bills were tabled before the National Assembly.

OSIWA supported its partners to work assiduously on the review of laws that discriminate against women and, as already mentioned, on constitutional review. The domestication of CEDAW was high on OSIWA's priority list, with considerable efforts put into the campaign. Although the bill failed to pass at the federal level, some significant successes were recorded at the state level. Imo and Anambra states passed the Gender and Equal Opportunities Bill, which is an adaptation of CEDAW, and the bill is at various stages in 26 other state Houses of Assembly as of July 2010.

WOMEN'S RIGHTS

Nigeria is a deeply patriarchal society. This tradition is entrenched across all segments of society and is reinforced by statutes, traditions, religion, and social mores. The highly negative consequence is that women, who constitute more than half of the population, do not have equal opportunities to reach their full potential and contribute their fair share to the development of the nation.

OSIWA sought to address this problem through support for law reform, sensitization and awareness creation, actively promoting the enhancement of women's participation in governance, and building the leadership skills of young women. Specific activities included advocacy on the domestication of CEDAW, advocacy on affirmative action, the drafting and advocacy of a bill on the review of all laws that discriminate against women, and leadership training for female students in tertiary institutions across the country.⁸

In order to mainstream women's issues into the constitutional reform process and promote gender equality in Nigeria,

OSIWA supported the Gender and Constitution Reform Network (GECORN). The network succeeded in training focal points in all the 36 states on advocacy strategies at the state and federal legislative level, and through the equipped state coordinators, GECORN has been able to present memoranda to almost all the 36 state Houses of Assembly. Another major achievement of GECORN was that when the constitutional review process in Nigeria suddenly emerged from a lull and the government abruptly called for simultaneous public hearings on the constitutional review in all six geopolitical zones of Nigeria, GECORN strategized within less than 48 hours to ensure that the views of the coalition on gender issues in the constitution were taken into consideration. The network mobilized over 100 women per each of the six geopolitical zones for the public hearings. Their memos were taken into serious consideration by the legislative panels, and some of their suggestions were taken on board in the final report presented to the National Assembly (GECORN report to OSIWA 2007).

TRANSPARENCY AND ACCOUNTABILITY

Nigeria is ranked as one of the most corrupt countries in the world. In spite of the fact that the country has generated enormous resources in the last 25 years, over 70 percent of the population lives on less than \$1 a day. There is desperate need to ensure transparency and accountability in governance in Nigeria to curb corruption, ensure equitable distribution of resources, increase government revenue both at federal and state levels, respond to the people's welfare needs, and empower citizens to hold the government accountable.⁹ OSIWA addressed this issue through legal advocacy, budget transparency initiatives, institutional capacity-building, enhancing civil society's participation in revenue transparency issues with regard to the extractive industries, and also having a Niger Delta focus.

Legislative Advocacy

The Budget Bill

Since 2004, OSIWA has worked closely with partners like the Women Advocates Research and Documentation Center (WARDC) to draft and advocate for the passage of a Budget Bill at the federal level to provide the needed legal framework for appropriations, strengthen the oversight functions of the legislature on government spending, and enhance citizens' participation in government budgetary processes.

Although the bill has not been passed, it received major support from several legislators in the Senate and the House of Assembly. Bills like the National Budget Office Bill and the Fiscal Responsibility Bill have benefited immensely from the Budget Bill drafts and advocacy surrounding it.

The Freedom of Information Bill

Access to information is key to any effort to build transparent and accountable governance and critical for the development of an open society. Congruent with its mandate, OSIWA worked with the National Human Rights Commission in 2003 to plan advocacy strategies on the Freedom of Information Bill and undertake advocacy visits to government agencies, ministries, and federal houses of assembly. The advocacy plan was focused on bureaucrats.

Budget Transparency

The budget is seen as a tool for development and poverty alleviation. Public understanding of the budget and popular participation in its process has clearly demonstrated great outcomes and efficient allocation of the budget. Increasingly, global civil society has made efforts to have access to accurate, justifiable, and comprehensive information and data on the budgets of their countries. Unfortunately, the budget is still not comprehensive and transparent in most underdeveloped countries. Many governments don't feel obliged to respond to the questioning of people on budget management and allocation. One reason is that very little is known of the details of fiscal balances and how to monitor revenues and budget.

Having identified increasing unemployment, unequitable distribution of income, a growing number of people living below the poverty level, and general poor infrastructural facilities in West Africa generally, OSIWA raised several questions about the effectiveness of public expenditure management.¹⁰ In Nigeria, OSIWA pushed the envelope on budget transparency and set the ball rolling for what has today become one of the major civil society trajectories in its call for transparency and accountability: participatory budgeting.

In 2002, OSIWA mobilized civil society input into the 2002 national budgetary process. The participating groups included the Nigeria Labour Congress (NLC), the Shelter Rights Initiative (SRI); Community Action for Popular Participation (CAPP); and the Justice, Development and Peace Commission (JDPC). This was

the first time in the history of Nigeria that a wide range of interest groups involving media, labor, manufacturers, and so forth were coming together in an organized manner to scrutinize the budgeting process and make representations. OSIWA is now considered one of the leading organizations in the involvement of Nigerian citizens in the budget issue. Some of the organizations listed above continue to work with OSIWA on the budget. This work has deepened people's understanding of Nigeria's budgetary processes and consolidated and expanded the involvement and role of civil society organizations. Another meeting was organized by OSIWA for development partners. They included DFID, the United Nations Development Program, the MacArthur Foundation, the Heinrich Böll Foundation, and the Canadian International Development Agency (CIDA). Government agencies, the budget office, NGOs, and CSOs were also invited to a meeting that opened the door to the budget law initiative mentioned in the previous section that OSIWA subsequently supported. (OSIWA Report on Budget Initiatives 2005)

OSIWA has also supported six organizations¹¹ to implement a budget transparency project in one state and in three local governments of that state in each of the six geopolitical zones in Nigeria. The states that benefitted from this project are Oyo, Kebbi, Bauchi, Edo, Owerri, and the Federal Capital Territory (FCT). The groups carried out needs assessments, reached out to the communities and targeted both religious and community leaders to inform them about the need to monitor budgets and how it affects their work, organized training for leaders in the various communities, organized community parleys to enable the people's interaction with the local authorities, used the electronic media to create awareness about the importance of community participation in participatory budgeting, and created budget watch groups for each of the local government areas. Among the achievements of this project are an increased awareness in communities about the need for citizens to get involved in budgeting, opportunities for citizens to interact directly with government officials, the creation of charters based on which candidates for local government can be tasked, an increased capacity of CSOs and community based organizations (CBOs) in the communities on budgeting, increased involvement of the media (particularly the electronic media) on issues of budgeting, and partnerships particularly between CSOs and local government budget officials. With the increased interest at the state level of adopting fiscal responsibility measures, this project will be consolidated.

To provide information on budgetary allocations to state and local governments, OSIWA supported the Ministry of Finance under Ngozi Okonjo-Iweala to publish a monthly update of statutory allocations made to the three tiers of government—federal, state, and local governments—and convened training workshops to train people on how to make use of the publications in their various states, at all levels (local, state, or federal government).

Extractive Industries—Revenue Transparency

OSIWA supported the establishment of a “Publish What You Pay” coalition in Nigeria. The coalition of Publish What You Pay has been active in monitoring the Nigeria Extractive Industries Transparency Initiative (NEITI). The group has gained recognition for their work so far but still needs to do more, especially on training its members and organizing the coalition better for sustainability. The coalition has since then, in collaboration with other groups, analyzed the Interim NEITI Financial Audit Report undertaken by the Nigerian government (with a final communiqué posted on NEITI’s Web site). The advocacy work of the PWYP coalition contributed significantly to the pressure on government to recognize the contribution of civil society to the NEITI. Civil society is thus fully represented on the Working Group of the NEITI and has also signed a Memorandum of Understanding (MoU) with the government to ensure that the voice of civil society is always heard at the table with regard to issues relating to Nigeria’s extractive industry.

The Niger Delta

The situation in the Niger Delta is vividly described by a publication supported by OSIWA on the Niger Delta.¹² It states:

Since 1999 when civil rule returned to Nigeria after decades of successive military dictatorships, a fierce war has been raging between ethnic and social forces in Nigeria over the ownership and control of resources in the Niger delta. As a direct result, a long, dark shadow has been cast on efforts to improve the well-being and economic development of the region’s individuals, people and communities. . . . Successive Nigerian governments have failed to prioritize development in the Niger Delta, sparking an emergence of groups agitating for self-determination and resource control. Ownership, control and management of these resources are vested in the federal government and supported by laws and legislation. Many of these laws have been generated without due consideration for the agitations of the well-being of Niger-Delta oil-bearing communities. (Amadi 2005, iv)

The situation has degenerated even further, and criminal elements have now taken over. One major tactic that is being employed in recent times is the taking of hostages for huge ransoms. Previously, victims of kidnapping were mostly expatriates, but the focus now is on the capture of Nigerians—in some cases, children as young as two years old. The youth are the main conduits for the perpetration of these crimes. The destruction of oil rigs and other infrastructure in the oil-producing regions has led to a major loss of revenue for Nigeria and had a negative ripple effect on global oil prices.

OSIWA's intervention has been to support projects to develop the capacity of communities in the oil-producing states of the Niger Delta to monitor and make the Niger Delta Development Commission (NDDC) accountable; to strengthen democracy at the local level and encourage lasting peace and sustainable development through the use of democratic channels; to promote new institutional approaches for Niger Delta communities; to monitor resource flows through a stakeholder-driven trust fund; to monitor resource flows in the Niger Delta: Abia, Akwa Ibom, and Cross River states; and to train youths in information and communication technology to increase their employability and promote positive values. OSIWA also supported a SERAC publication entitled "Perpetuating Poverty, Consolidating Powerlessness: Oil and the Niger Delta" that made an in-depth assessment of the oil politics in the Niger Delta and its impact on the development of the area and its peoples (SERAC 2005).

CAPACITY-BUILDING FOR CIVIL SOCIETY ORGANIZATIONS AND GOVERNMENT

One main result of years of military rule and the absence of a democratic culture in Nigeria is weak democratic institutions. These include the legislature, the judiciary, the human rights commission, the electoral commission, government agencies (ministries), and civil society organizations.

With a focus on its strategy to enhance the promotion and protection of fundamental human rights, OSIWA has supported the functions of and capacity-building for the National Human Rights Commission, the Human Rights Committee of the Fourth Republic State House of Assemblies, Human Rights NGOs, and the Ministry of Justice. The support to the National Human Rights Commission included drafting and pushing for the passage of the National Human Rights Commission Bill and support for interconnectivity

of the Human Rights Commission. The work with the Human Rights Committee in the State Houses of Assembly under the Fourth Republic enabled the committee to address various human rights issues on justice sector reform, economic and social rights, internally displaced persons (IDPs), and the ratification of international instruments and activities around the passage of the Anti-discrimination Bill.

OSIWA worked closely with the Ministry of Justice on penal reform and also on the bill that sought a review of all laws that discriminated against women. The work on penal reform included support for two Inter-Ministerial Summits on prison decongestion that reviewed the Awaiting Trial Persons Legal Representation Project, strategies for the establishment and sustainability of half-way homes in the six geopolitical zones of Nigeria, proposals for the establishment of an independent prisons inspectorate, review of the Prison Act Amendment Bill 2006, review of the situation of death row inmates, and presentation of a strategic plan for enhanced cooperation between criminal justice agencies in prison decongestion as well as the preliminary findings of the Presidential Commission on Prison Reform and Rehabilitation. This project complemented the work of the National Working Group on Prison Reform and Decongestion, which OSIWA also supported. As stated earlier, the presidential commission supported by OSI consolidated the results of these projects and also addressed other issues of justice sector reform. OSIWA also supported the Ministry of Justice to establish a Web site.

CHALLENGES

Political Upheaval and Government Interference

OSIWA and its partners encountered a number of significant challenges in their struggle toward the creation of an open society in Nigeria from 1999 to 2007. Key among them were the incessant political upheavals that affected the business in the federal Houses of Assembly and state Houses of Assembly, particularly Ekiti and Taraba, where OSIWA had capacity-building programs and legislative advocacy programs involving the legislature, and government interference in the operations of institutions such as the National Human Rights Commission which caused a disruption in the capacity-building program for the Human Rights Commission. The Third-Term Agenda also caused a significant disruption and stalling of action on advocacy activities on the Budget Bill and CEDAW, for example.

Donor Dependence

One downside of the influx of donors in the consolidation of democracy in Nigeria is that civil society organizations have become heavily dependent on donor funding to run almost all projects. The result is that where donor organizations cannot for one reason or another continue to fund a project on a long-term basis, the gains achieved cannot be sustained and in some cases the organizations have to close down.

Weak Capacity of Organizations

Another challenge has been the weak institutional capacity of some civil society organizations and government agencies. This affects the timely implementation of projects.

DONOR PARTNERSHIPS

It is clear from this chapter that OSIWA has worked very closely with civil society organizations and some government agencies, as well as the legislature in both Houses of Assembly, particularly at the federal level. One constituency that has also partnered with OSIWA at various stages and on different projects has been donor/development partners. One of the criticisms targeted at donor agencies has been the lack of coordination in their support to projects in Nigeria, leading to, among other things, a duplication of projects in some instances and a “thinning” of resources (IDEA 2001, 324). OSIWA has therefore endeavored where possible to work with other donor agencies. Examples include partnering with the British Council on the project whose main objective included mobilizing and networking female legislators and working with them on different strategies to widen the space for women’s political participation, participating in the Donor Coordinating Group on Gender (DCGG), the joint donor group that worked on the 2007 elections and the Donor Group on Political Governance (DPGG), coordinated by the UNDP.

Other organizations have also invested a lot into Nigeria’s democratic process. Initiatives such as the Publish What You Pay coalition have been sustained by support not only from OSIWA but also from organizations like Save the Children—UK, DFID, and USAID—Pact Nigeria (Ikubaje 2007, 64). DFID, for example, has been a major driving force behind NEITI, and during the 2007 elections ACE, for instance, got support from the MacArthur Foundation to carry

out opinion polls. Organizations like Action Aid have been strong on issues of budget transparency.

However, there needs to be better collaboration among donors to prevent duplication of efforts, to maintain a strong concentration of resources, and to ensure that more impact is made.

THE WAY FORWARD

At the dawn of Nigeria's political succession in 2007, OSIWA once again organized a strategy review meeting for its program in Nigeria and sought partners' views on the strategy implemented so far and what needed to be done to improve on lapses. The meeting also looked at whether there was a need to develop new strategies.

There was consensus on the fact that the issues outlined at OSIWA's consultative meeting in 2001 still remained relevant and that there was no need to shift focus. Rather, what was needed was to consolidate on the gains that had been made and build on the foundation that had been laid. The major issues of constitutional reform, electoral reform, justice sector reform, transparency and accountability, and human rights promotion and protection still remained relevant. Participants at the meeting, however, outlined some critical areas that had to be addressed in the partnership with donors, and this was an echo of what partners that had participated in OSIWA's evaluation exercise in 2006 and 2007 had raised. Some of the issues raised were as follows:

Program sustainability: This emerged as a cross-cutting issue in terms of funding lifespan and retention of project output and cumulative impact. A significant number of grantees called for longer-term funding—above the current average of one-to-two years grant lifespan, to avoid the abrupt ending of many good projects due to stoppage of funding.

Community and grassroots empowerment: Grantees emphasized a pressing need for increased support for community and grassroots mobilization. Most Nigerians reside in rural communities and have been excluded from project targets. In addition to increasing chances of project sustainability, community mobilization for active participation raises the community's ownership and acceptance of the project and the organization, raises the community's voice, and increases possible pressure for advocacy. It is also capable of strengthening partnerships and harnessing social capital as building block for a strong NGO constituency and better representation.

Strategic networking: This emerged as a best practice in many successful project implementations. Participants emphasized the

strategic importance of adapting OSIWA grants to promote projects that promote alliances and partnerships among critical agents of change.

Pressing need for constitutional amendments: Many projects suffered setbacks from institutional impediments. For instance, some constitutional provisions repugnant to democratic principles and values created delays and stalled many advocacy initiatives. Mostly affected were legislative advocacy initiatives. Some could not be concluded due to “unfriendly” legislative rules, procedures, and constitutional provisions. In addition, politicization, tension between legislatures and the executive, and inadequate support from politicians and key political office holders cut down on potential impacts of projects.

Participants advised OSIWA, in “rethinking” its program strategies, to give attention to this and be more proactive. Direct support and collaborations with critical state institutions and agencies as well as continuing program support to civil society on constitutionalism and rule of law are alternative considerations for creating linkages among critical stakeholders.

Connecting grants, outcome, and strategies: Some grantees were of the opinion that project outcomes should have more influence in the evaluation and review of strategies. According to them, the collection and dissemination of information about NGO activities and achievements is weak. Consequently, mechanisms for incorporating knowledge, lessons, and best practices from various civil society interventions should be strengthened to raise civil society’s voice in development planning and governance.

The way forward for OSIWA is to take into serious consideration all the points highlighted. Even though they are issues that were raised in particular reference to OSIWA, they also hold true for other donor organizations that have been engaged in Nigeria’s democratic experiment since 1999 and should be given the needed attention in designing future programs.

CONCLUSION

There is still a long way to go to attain the ideals of an open society and consolidate democracy in Nigeria. External actors like OSI through OSIWA have recorded significant progress toward the achievement of these goals. However, the “promised land” has not been reached yet, and under this new regime, it is hoped that greater and much further progress will be made.

NOTES

1. A country office was set up in Liberia in 2007.
2. "My father had taught me that at the height of a revolution, practically anything is possible. The first man who walks into a plant manager's office...can take over the plant; the next man already finds someone else in charge. Armed with this insight, I was determined to be the first man. I was in a unique position to accomplish this. I had political convictions, financial means and an understanding of the importance of the moment. Many people had one or two of these attributes, but I was unique in having all three." Quote from *The Age of Fallibility*, George Soros, 2007.
3. Information gathered from the 2001 OSIWA Nigeria Consultative Forum report.
4. Press Release, Canadian Department of Foreign and International Affairs, "Axworthy announces Canada's response to constructive developments in Nigeria," August 24, 1998, as quoted in *Democracy in Nigeria: Continuing Dialogue(s) for Nation-Building*, Capacity-Building Series 10, p. 25.
5. Background information in concept paper: OSIWA National Conference on Citizenship, November. 2006 drafted by Dr. Ojiji, IPCR.
6. The Presidential Commission on the reform of the Administration of Justice in Nigeria, Proposals for Reform of the Administration of Justice in Nigeria, November 2006, p. 1.
7. The attorney general and the minister of justice clarified this heading to mean the development of a national policy on the administration of justice.
8. Names of partners supported by OSIWA: Civil Resource Development and Documentation Centre (CIRDDOC); Women in Nigeria (WIN) (Kaduna Branch); United Nations Development Fund for Women (UNIFEM); Project Alert on Violence Against Women (Project Alert); Women's Rights Advancement and Protection Alternative (WRAPA); Women's Aid Collective (WACOL); Legal Defence and Assistance Project (LEDAP); Partnership for Justice (PJ).
9. OSIWA background information on Nigeria prepared by Michel Saraka, Economic Program Manager.
10. OSIWA Report on Budget monitoring and tracking in West Africa, Michel Saraka, Economic Governance Programme Manager.
11. Women Advocates Research and Documentation Center (WARDC); TAMTASS Development Centre, Bauchi; Centre for Development, Constitutionalism and Peace Advocacy (CD-COPA); Environmental Rights Action (ERA); Community Action for Popular Participation (CAPP); ANCHOR; Centre for Constitutional Governance (CCG).

12. "Perpetuating poverty, consolidating powerlessness. Oil and the Niger Delta," SERAC (Social and Economic Rights Action Center), September 2005.

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