

Fordham International Law Journal

Volume 25, Issue 2

2001

Article 4

Issues on Ethnicity and Governance in Nigeria: A Universal Human Rights Perspective

Ema I. Orji*

*

Copyright ©2001 by the authors. *Fordham International Law Journal* is produced by The Berkeley Electronic Press (bepress). <http://ir.lawnet.fordham.edu/ilj>

Issues on Ethnicity and Governance in Nigeria: A Universal Human Rights Perspective

Ema I. Orji

Abstract

This Article focuses on the plight of the Igbo ethnic group of southeast Nigeria. It traces the historical and political evolution of Nigeria with emphasis on ethnic relations. In arguing that the Igbo are victims of fundamental human rights violations, references are made to relevant international human rights instruments, as well as to the various constitutional guarantees entrenched in various Nigerian constitutions. The marginalization of the Igbo is discussed, particularly with regard to disparities in national education programs. This Article also discusses the Igbo right to self-determination and the failure of the international community to intervene on behalf of the Igbo. Although it is proved that the Nigerian government has systematically breached its human rights obligations, this Article establishes the fact that the Igbo themselves, to a great extent, created the environment that enabled and enhanced their so-called marginalization in Nigeria. The Article then proceeds to suggest remedies.

ISSUES ON ETHNICITY AND GOVERNANCE IN NIGERIA: A UNIVERSAL HUMAN RIGHTS PERSPECTIVE

I. Ema Orji*

INTRODUCTION

A. Brief Survey of Universal Basis for Human Rights Protection

International legal protection of human rights is embodied in the principle of universal respect for human rights and fundamental freedoms for all peoples of the world.¹ It is a rule of law binding on all States irrespective of the differences in their socio-economic systems or levels. To the extent that international law derives its binding force from agreements freely entered into by States, they automatically assume two major duties: (i) *pacta sunt servanda*, i.e., conscientious fulfillment of international obligations, and (ii) responsibility for the breach of international rules. Furthermore, any domestic law is void if it conflicts with a peremptory, imperative *jus cogens* or superior norm of general international law from which no derogation is permitted and which only a subsequent norm of general international law having the same character can modify.

In the international environment, the 1960s represented an

* Joseph R. Crowley Program in International Human Rights Visiting Professor, Fordham University School of Law, New York, N.Y. Formerly Visiting Scholar, Global Law Program, New York University School of Law.

1. Universal concern for human rights made its entry in international politics in the nineteenth century. Human rights featured prominently in the abolition of slave trade, as well as in the First and Second World Wars. The modern awareness of the universal approach for the protection of human rights was borne out of the bitter lessons of the Second World War. Although international collaboration has prevented a Third World War so far, evidence of wars at varying degrees and intensities are ubiquitous with their consequent deprivation of human rights and fundamental freedoms of man. Nevertheless, the present day universal commitment to human rights protection has brought immense relief to victims of draconian national governments across the globe. A lot more, however, remains to be accomplished. See generally Treaty of Versailles (1919); U.N. CHARTER; Universal Declaration of Human Rights, U.N. G.A. Res. 217A (III 1948), U.N. Doc A/810 [hereinafter UDHR]; International Covenant on Civil and Political Rights, 999 U.N.T.S. 171 (1966) [hereinafter ICCPR]; International Covenant of Economic, Social and Cultural Rights, 993 U.N.T.S. 3 (1976); J.G. STARK, INTRODUCTION TO INTERNATIONAL LAW (9th ed. 1984); M. MOSKOWITZ, INTERNATIONAL CONCERN WITH HUMAN RIGHTS (1974); L. OPPENHEIM, INTERNATIONAL LAW: A TREATISE (9th ed. 1974); IAN BROWNLIE, PRINCIPLES OF PUBLIC INTERNATIONAL LAW (5th ed. 1998).

important era, for during that period many Third World nations² gained political independence and joined the community of nations. Their struggle for independence was predicated on the principles of fundamental human rights emphasizing the right to self-determination as opposed to foreign domination. Consequently, both the developed and least developed countries became partners in running the affairs of the human society. Most of the newly independent nations acceded to pre-existing international treaties and conventions concluded by ex-colonial powers.

On the regional level, many concerted efforts have been made to promote and protect human rights. In Africa, the Organization of African Unity³ ("O.A.U.") adopted the African Charter on Human and Peoples' Rights in 1981 ("Banjul Charter").⁴ It was intended to fill the void created by the O.A.U. Charter with respect to human rights, specifically the absence of their particular guarantees in the Charter and the machinery towards the realization of these rights. The Banjul Charter, while reaffirming the rights contained in the UDHR, however, emphasized human rights based upon an African legal philosophy and responsive to African needs.⁵

Upon independence on October 1, 1960, Nigeria inherited, among others, the Universal Declaration of Human Rights ("UDHR").⁶ The UDHR provides for civil and political rights as well as economic, social, and cultural rights. Despite a few shortcomings, the UDHR could be said to be a summation of the most basic human rights. Although, the UDHR fell short of creating positive law directly binding on States, States have agreed that "the UDHR constitutes an obligation for the members of the international community."⁷

Nigerian constitutions from 1960-1999 have had fundamental rights entrenched in them. By their nature, rights guaran-

2. Also often referred to as "Least Developed Nations," "Developing Nations," or "Economically Backward States."

3. In the process of restructuring under a new name "The African Union."

4. African Charter on Human and Peoples' Rights, June 27 1981, entered into force October 21 1986, *available in* 21 I.L.M. 58 [hereinafter Banjul Charter].

5. Richard Gittleman, *The African Charter on Human and Peoples Rights: A Legal Analysis*, 22 VA. J. INT'L L. 667, 668 n.4 (1982).

6. UDHR, *supra* note 1.

7. United Nations Conference on Human Rights, Teheran, Iran (1968). See 63 AM. J. INT'L L. 674 (1969) for the full text of the Teheran Resolution.

teed by the constitution are supreme because the executive and the legislature cannot override them unless the constitution is amended by a decree.⁸ These constitutions reflected principles derived from human nature, which were aptly expressed by Thomas Jefferson in the original draft for the Declaration of the Independence of the United States of America in 1776: "We hold these Truths to be self-evident that all men are created equal, that they are endowed by their creator with certain inalienable rights, that among these are life, liberty and pursuit of happiness. . . ."⁹

B. *Issues*

For thirty months, between 1967 and 1970, a civil war ravaged Nigeria's eastern region following an attempted secession by the Igbo people under the name of "Republic of Biafra." Thirty-one years since the ethnic-motivated pogrom and consequent bloody civil war, ethnicity and abuse of fundamental rights and freedom continue unabated. The permanent state of militarism that lasted for over three decades in Nigeria did not help matters. The ethnic biases, sectionalism, and bitterness resulting from the civil war, have refused to go away. It is felt, seen, and lived daily in Nigeria. It has become a way of life.

Ethnicity refers to a selected cultural and physical characteristic used to classify people into (ethnic) groups or categories considered to be significantly different from others.¹⁰ Defined as a subgroup that shares a common ancestry, history, or culture, ethnicity is determined by a number of factors: geographic origins, family patterns, language, values, cultural norms, religion, literature, music, dietary patterns, gender roles, and employ-

8. The military consistently abused the constitutions by use of decrees.

9. See American Declaration of Independence of 1776. The liberal tradition of human rights may be explained in two ways. One way is to adopt the social contract theory as an analytical tool. The other is the acceptance of the natural law tradition. Man has rights because he is human being and not necessarily because of any other reason like his consent to a contract. The idea of contract, admittedly, is vital to the smooth functioning of a State structure.

10. The study of ethnicity has attracted a multi-disciplinary approach since the term was first introduced by American sociologist David Reisman in 1953. However the word "ethnic" is much older. See *generally* DONALD L. HOROWITZ, *ETHNIC GROUPS IN CONFLICT* (1985); THOMAS H. ERIKSEN, *ETHNICITY AND NATIONALISM: AN ANTHROPOLOGICAL PERSPECTIVE* (1993); *ETHNICITY AND GROUP RIGHTS* (Ian Shapiro & Will Kymalicka eds., 1997).

ment patterns.¹¹

Distinction is sometimes made between ethnicity, that is ethnic spite or parochialism, called "tribalism," and ethnic dignity as a human right which often features in the national question or human rights question.¹² Often, an ethnic group is oppressed, exploited, marginalized, or discriminated against by leaders from one or more ethnic groups in a stronger political, economic, or social position. Resentment to such disability, the resultant desire for justice and equity, and a consequent struggle to have ethnically manifested wrongs righted, is not ethnicity. Rather, Toyo argued:

[I]t is a cry or struggle for the human dignity of people who form an ethnic group. It belongs to the category of contention or struggle for human rights. Freedom from oppression, exploitation, or other injustice on the ground of ethnic difference is a human right. It also deserves to be a citizenship right in Nigeria.¹³

Issues arising from ethnicity in Nigeria have been of immense concern to Nigerians both at home and in the diaspora. In an article, *Ethnicity as an Epiphenomenon in Nigeria's Leadership Problem*,¹⁴ Douglas Anele wrote: "the theory of scape-goatism, that is the doctrine that a particular geopolitical group is responsible for the political problems of Nigeria whereas another group has been, at best, the victim of deliberate marginalization by the dominant group has become hackneyed."

The on-going agitations by various ethnic groups are a direct result of what has widely become known in Nigerian lexicon as "marginalization." The Hausa/Fulani of the North are complaining about marginalization in the area of education and economic development. The Igbo are crying marginalization in al-

11. In Nigeria, an important part of ethnicity is religion. The recent introduction and implementation of the *Sharia* in many States in the North has further ignited ethnic-religious conflicts in the country. Nigeria is a secular State, as provided by Article 10 of the Constitution. Although the Constitution allows for *Sharia* courts as well as customary law courts (arts. 260, 262), there is no basis in the Constitution for the establishment of Islamic law within the sovereign State of Nigeria. The combination of ethnicity and religious fanaticism in parts of the country has further contributed to serious abuse of human rights and fundamental freedoms in Nigeria, presenting obstacles to Nigeria's unity, stability, and progress.

12. Eskor Toyo, *Combating Ethnicity*, US-AFRICAN VOICE, June 1999.

13. *Id.*

14. LAGOS VANGUARD, Opinion Page, Nov. 19, 2000.

most every aspect of national endeavor, including political, military, and senior civil service appointments and promotions, as well as economic and social development. They also complain about the non-implementation of the Reconciliation, Reconstruction, and Rehabilitation program promised at the end of the civil war in 1970. The Yoruba are displeased, among other things, with the early retirement of their qualified and experienced nationals from the civil services during the military dictatorships. The South-South, which comprises the oil-rich states of Nigeria, are pushing for full control of their natural resources.

Deriving from the foregoing is a multiplicity of ethnic militias formed by the various nationalities to fight for their respective demand for self-determination. Notable among the militia organizations are the *O'odua* Peoples' Congress ("OPC"), a pan-Yoruba movement; the *Bakasi* Boys and the Movement for the Actualization of the Sovereign State of Biafra ("MASSOB"), who have the backing of the Igbo nation; the Movement for the Survival of Ogoni People ("MOSOP"), whose former leader, Ken Saro-Wiwa along with eight other members were executed in 1995 by the late General Abacha's regime; the Arewa Consultative Forum ("ACF") of the Hausa/Fulani extraction; the *Egbesu* Boys, in the forefront for the South-South group of States; and the Ijaw Youth Congress. These ethnic armies have different *modus operandi*, different agenda, and aim for different results.

This Article focuses on the plight of the Igbo ethnic group of southeast Nigeria. It traces the historical and political evolution of Nigeria with emphasis on ethnic relations. In arguing that the Igbo are victims of fundamental human rights violations, references are made to relevant international human rights instruments, as well as to the various constitutional guarantees entrenched in various Nigerian constitutions. The marginalization of the Igbo is discussed, particularly with regard to disparities in national education programs. This Article also discusses the Igbo right to self-determination and the failure of the international community to intervene on behalf of the Igbo. Although it is proved that the Nigerian government has systematically breached its human rights obligations, this Article establishes the fact that the Igbo themselves, to a great extent, created the environment that enabled and enhanced their so-called marginalization in Nigeria. The Article then proceeds to suggest remedies.

I. *HISTORICAL OVERVIEW*

"God did not create Nigeria, the British did."

- Sir Ahmadu Bello, (The late Sarduna of Sokoto).

Prior to the incursion of the British explorers and merchants, the area now called Nigeria was inhabited by various ethnic nationalities, which interacted among themselves, particularly in commerce. They were organized and governed on the basis of the principles of kingship, family, and age, which later developed in many different directions. Some remained communal democracies. Others became kingdoms, emirates, and empires.¹⁵ These traditional institutions of governance included, for instance, the kingdoms of the Opobos; the Jukuns; the Sokoto caliphate, comprising a number of emirates; and the empires of Kanem Bornu, Oyo, Benin, and Kwara. In the mostly chief-less societies in the Eastern part of the territory, the main political authority among the Igbo rested with the age grade¹⁶ or family.¹⁷

Present day Nigeria is a vast nation of an estimated 100 million people occupying an area of 923,770 square kilometers. Of Nigeria's approximately 250 ethnic groups, three are statistically relevant, namely: the Hausa/Fulani, the Igbo, and the Yoruba.¹⁸ Together with the three major ethnic groups, others, like the Ijaw, the Efik/Ibibio, and the Tiv are considered coherent sub-cultures with shared languages and bodies of traditions. Therefore, Nigeria may be called a nation of ethnic minorities.

A. *The British Conquest*

The romance with the British, which eventually produced today's Nigeria, started in 1861, with the establishment of the colony of Lagos. Through deceit, bribes, and brutal force, Britain was able to extend and strengthen its earlier conquests in the coastal communities of the South into a vast colonial territory.

15. DIRECTORATE FOR SOCIAL MOBILIZATION ("MAMSER"): *POLITICAL EDUCATION MANUAL*, ABUJA 3-4 (1989).

16. An age grade is a group of people born within four or five years of each other.

17. See G.C. IFEMESIA, *TRADITIONAL HUMANE LIVING AMONG THE IGBO* (1979); E.N. NJAKA, *IGBO POLITICAL CULTURE* (Evanston ed., 1974); DARYL FORDE & G.I. JONES, *IGBO AND IBIBIO-SPEAKING PEOPLES OF SOUTHEASTERN NIGERIA* (1950); CHINUA ACHEBE, *THINGS FALL APART* (1958).

18. Hausa/Fulani, Igbo, and Yoruba make up roughly 65% of Nigeria's population.

Initially, the motive was economic exploitation of the vast resources of the areas. But a system to facilitate political domination followed soon afterwards. By 1906, the Niger Coast Protectorate, established in 1897, merged with Lagos and renamed the Protectorate of Southern Nigeria. Meanwhile, the Royal Niger Company administered the area north of Lokoja on behalf of the British. Britain assumed active control of the company in 1900, naming the area the Protectorate of Northern Nigeria, and appointed Frederick Lugard as the High Commissioner.

These skirmishes paved the way for the great amalgamation of the Southern and Northern Protectorates by Lugard in 1914. Thus, a nation was created, and named "Nigeria." Different ethnic nationalities became grouped together as one nation. It was not long thereafter that the artificiality and un-workability of the enterprise became evident. However, the arrangement ensued, despite serious opposition by the various ethnic groups, until attainment of independence.

B. Emancipation

The road to independence was rough, but not bloody. The approach was constructive and persistent. Freedom was not easily won or readily conceded, but it was achieved on October 1, 1960.¹⁹

Efforts to patchwork Nigeria together into one indivisible body began in 1922 with the Clifford Constitution. It was replaced in 1946 with the Richards' Constitution. Two more constitutions, the 1951 Macpherson Constitution and the 1954 Lyttleton Constitution, followed before the independence Constitution of 1960. Whereas the first two constitutions were mere documents single-handedly enacted by the men whose names they bore, without seeking public opinion, the 1951, 1954, and 1960 constitutions, to a reasonable extent, met the patterns of procedure for constitution making. In the case of the independence Constitution of 1960, a series of constitutional conferences were held in Britain and Nigeria, and a wide spectrum of

19. Nigerian opposition to foreign rule came in two forms; resistance to colonization and, later, opposition to colonial rule, followed by the demand for independence. Naturally, the nationalist movement in Nigeria started with the desired exclusion of colonial and cultural domination of the political, economic, social, and cultural life of the people. Opposition to cultural domination was only smoldering whilst opposition to foreign rule was visible.

public opinion was consulted. By then however, political parties and associations had sprung up. The ethnic diversity of Nigeria was greatly reflected by the fact that a total of 107 parties or associations emerged.²⁰ Three political parties, the Northern Peoples Congress ("NPC"), the National Convention of Nigerian Citizens ("NCNC"), and the Action Group ("AG"), dominated by the three major ethnic groups of Hausa/Fulani, Igbo, and Yoruba, respectively, had remarkable impact at the national level.²¹

Ethnic consciousness was so pronounced in Nigeria that the old national anthem adopted at independence read in part "though tribe and tongue may differ in brotherhood we stand" Subsequent events that plunged the country into ethnically enhanced political crisis showed that much more was needed than mere lyrics of a national anthem. The civil war, militarism, and military intervention in politics, enabled one ethnic group to perpetuate its domination of governance to the bitter exclusion of the other component nationalities. Human rights and fundamental freedoms suffered serious setbacks.

With the 1963 Republican Constitution, all legal and political links with the Queen and the British Crown were severed. Three notable constitutions have been promulgated in recent times, the 1979, 1989, and 1999.²² The 1979 Constitution was modeled on a system similar to that of the United States of America. This was a bold departure from the parliamentary democracy inherited from the British at independence. But in 1983, the presidential system which has endured in the United States for over two centuries, was terminated after only four years of use in Nigeria. From then until May 1999, when the incumbent, President (Retired General) Olusegun Obasanjo was inaugurated, the military had a field day in power.²³

20. Eighty-one political parties and twenty-six tribal and cultural associations.

21. See generally IBADAN, *GROUNDWORK OF NIGERIAN HISTORY* (Obaro Ikime ed., 1980); TEKENA N. TAMANO, *THE EVOLUTION OF THE NIGERIAN STATE: THE SOUTHERN PHASE 1898-1914* (1972).

22. All three constitutions were master minded by the military governments that had ruled the country at various times: General Olusegun Obasanjo (1976-1979), General Ibrahim Gbadamosi Babangida (1985-1993), and General Abdusalami Abubakar (1998-1999). The 1999 Constitution is a slightly adjusted version of the 1979 Constitution. The 1989 Constitution was never really implemented.

23. The Interim National Government of 1993 ("ING") was an arrangement put in place by General Babangida after the annulment of the 1993 general elections in Nigeria. The elections were widely believed to have been won by Chief Moshod Kolawole O. Abiola (who died in detention, fighting to validate his mandate from the majority of

II. PROLEGOMENON TO MILITARISM IN AFRICA AND THE ROLE OF ETHNICITY IN THE MILITARIZATION OF NIGERIA

"When . . . Mao Tse-tung, former Chinese leader, was quoted as having said that: 'political power grows out of the barrel of the gun,' though, he was probably referring to his native country, China, yet he could as well be thinking elsewhere, like Africa."²⁴ Many theories have been advanced to explain the phenomenon of military *coups d'état*, particularly in Africa. The most relevant posits that the military seize power because of a breakdown in political power, arising from mismanagement by the civilian government.²⁵ According to Samuel Huntington, "[f]requent *coup d'état* should not be viewed as pathological but as a healthy mechanism of gradual change, the non-constitutional equivalent of periodic changes, in party control through the electoral process."²⁶ The significance of such theory is that some civilian governments manipulate the State, constitution, and the democratic process in order to perpetrate their stay in power. Thus, a *coup* has become a way to bring about a change of government through the power of the gun.

In Nigeria, misunderstanding between the political leaders, tribal or ethnic interests, or nationalist impetus played a vital role in the January 15, 1966 military *coup d'état*. The docile nature of the post-independence ruling elites also contributed to the first *coup* in Nigeria.

Nigerians who voted for him). The ING, which only lasted a few months under the chairmanship of Chief Ernest Shonekan, facilitated the eventual take over by General Sani Abacha (who died in office in 1998).

24. Sunday Olagunju, *The Coup Fever*, TIMES INT'L, Jan. 27, 1986, at 5 (quoting Mao Tse-Tung).

25. *Id.* at 5 (citing SAMUEL P. HUNTINGTON, *POLITICAL ORDER IN CHANGING SOCIETY* (1968)).

26. *Id.* at 5; see also Obie Chukwumba, *Another Radio Coup*, AFRICAN CONCORD, May 28, 1990, at 19. In another article, *Coups: Africa's Headache?*, Olagunju wrote:

The two decades, 1950-1970 witnessed a dramatic transformation in the fortunes of several African nations. Ever since King Farouk of Egypt was toppled by a military *coup d'état*, master minded by colonel Abdul Camal Nasser in the summer of 1952, the writing was on the wall for all democratically constituted government in black Africa to read, though apparently, few of them read it. . . . Thus the general proposition that military take-overs in Africa reflect urban and intellectual discontent, as well as a vacuum of national power, and infrastructural under-development . . . which being at the same time the product of the characteristics of particular military sub-committees and their leaders, seems a reasonable hypothesis with which to begin.

The structural theory of *coups* seems realistic because more than anything else, it emphasizes the socio-economic circumstances as solely responsible for military intervention in governance. Thus, the inability of the ruling elite to solve internal socio-political and economic problems, led to dissatisfaction, particularly among the educated elites, about the despicable, inept, and despotic nature of the government as evidenced in the Nigerian *coup* that toppled President Shehu Shagari in 1983.²⁷ Consequently, there was a general apathy on the part of the citizenry due to dissatisfaction with the socio-economic system. In Nigeria, General Babangida justified his *coup* against General Buhari in 1985, on this theory, as did General Sani Abacha in his palace *coup* against Chief Shonekan's Interim National Government ("ING") in 1993.

The role of external forces in the occurrence of *coups* should also be taken seriously. Professional interests of the military should be a matter of concern for any civilian government in power. When the military feels utterly neglected and their welfare undermined, they soon become despondent and a way out could be mutiny or seizure of power. This was evident in the late General Murtala Muhammed's *coup* that chased General Yakubu Gowon out of power in 1975. After a bitter thirty-month civil war against Biafra (1967-1970), Nigerian soldiers expected a better deal from General Gowon than what took place.

Advocates of *coup* argue that the politicians often dig their own graves by politicizing the military and thereby involving them in political and tribal riots, as often is the case in Nigeria. Lessons have shown that *coups*, particularly in Africa, Asia, and Latin America, are products of naked forces that often impel each other and quite candidly:

27. See General Muhammadu Buhari, *Why We Toppled Shagari*, THISDAY NEWS, Nov. 25, 2001, at <http://www.thisdayonline.com/news/20011125news01.html>. Buhari, who toppled the regime of President Shehu Shagari, on December 31, 1983, in a recent lecture titled *Military Class, Political Class and Good Governance in Nigeria* described Nigerian politicians as "democrats of convenience," and warned that "the political class must put its acts together to prevent a situation where they would be left in the cold." Justifying his reasons for the overthrow, Buhari observed "The Second republic was doomed from the start on account of incompetence, impatience with the new system which politicians were unwilling to nurture, failure to be fair, gross corruption and near total indifference to the needs of the country." He noted that, "they are their own worst enemies because they have very little commitment to democracy beyond election day . . . and when they lose, politicians refuse to accept the verdicts and invite the military to return." *Id.*

[T]hey lack legitimate procedure for achieving their spelt-out goals . . . each group employs means which reflects its peculiar nature and capabilities . . . bribery, students riots, workers strike, mob demonstration more often, form the basis and act as catalyst to eventual military *coups* of the ruling oligarchy.²⁸

A. *Traditional Antagonisms and Division*

At independence, the Nigerian army was made up of about 8,000 officers and men, all of whom were transferred from the West African Frontier Force. Their individual and collective perception was purely military. They were not exposed to politics and so they did not know what power looked like. It even sounded strange to them that military men should ever contemplate being in government.

The late Alhaji (Sir) Abubaka Tafawa Balewa became the Prime Minister in 1960. He won the office on the platform of the NPC. He was the deputy leader of the party, and so he had no alternative but to take dictations from his political boss, the late Sarduana of Sokoto, Sir Ahmadu Bello. The Sarduana was the Premier of Northern Nigeria. Because of traditional reasons, the Sarduana decided to remain in Kaduna, from where he directed the affairs of the nation.

Chief Obafemi Awolowo, the leader of the AG, became the Premier of the Western region; Dr. Michael I. Opara, the Eastern region; and Chief Denis Osadebey, the Mid-Western region. They all operated regional policies respectively. Soon, the incohesive political nature of the country ignited various conflicts that engulfed the nation. From that period, ethnic biases were born, and arguably still have full effect today in every department of government and among the ordinary citizens of Nigeria.

The late Sarduana of Sokoto, through the Federal Prime Minister, Balewa, projected the political philosophy of his region resulting in discomfort in some parts of the country. His bid was always done at the center. Seeing political power as a sure beacon of hope to pursue his political dream, he schemed and utilized it very effectively. Enjoying the numerical strength of the North, the Sarduana ensured that all elections held in the North, whether federal or regional, favored him and his political party. Though the NCNC and the AG in the East and West re-

28. Olagunju, *supra* note 24.

spectively, also used their regional power to affect an impact at the federal level, the Sarduana's tactics eluded them.

The regional concept developed by the three political parties affected the 1963 federal census.²⁹ The stalemated census was an offshoot of the problems of the North, which blossomed further because of regional factors. Meanwhile, the Tiv of the Benue area, who had started to call for a separate State of their own, being predominantly Christians, could not stand the oppressive rule of the then Northern government. The riots that followed attracted the wrath of the NPC government.³⁰ The riots continued unabated whilst the first post-independence federal elections were held in 1964. Chief Awolowo, determined to neutralize the influences of the Northern caliphate at the center, resigned his position as Premier of the West, and opted to go to the center. He nominated his deputy and closest confidant, Chief Samuel Ladoke Akintola, to take over his place in the West. However, before the elections, Awolowo made a successful in-road into the North, particularly in the Middle belt areas where he supported Tiv's cause. Awolowo's move courted the anger and wrath of the Northern leaders. The situation became inflamed further.³¹

The NPC won the subsequent federal elections, beating the NCNC and the AG in the process. The NCNC and the AG accused the NPC of using federal might to win the elections. The NPC countered by accusing the NCNC and the AG of rigging the elections in their regional strongholds. The problem became compounded and for nearly one week the nation had no federal government. The NPC took advantage of the quarrel that had developed between Awolowo and Akintola to form an alliance between the NPC and National Democratic Party ("NDP") headed by Akintola. The alliance was called the Niger-

29. The 1963 national census figure was falsified. It was alleged by other political parties that the NPC used this to their advantage because census officers, who should have been allowed to go into the harems to count people were not allowed to do so. Rather, it was the head of the family that gave arbitrary figures to them. This made the population of the North increase to the disenchantment of the Southern political leaders.

30. JAMES O. OJIAKO, 13 YEARS OF MILITARY RULE 3 (1979); *see also* RICHARD AKINOLA, HISTORY OF *Coup d'Etat* IN NIGERIA 6 (1998).

31. Poor leadership was the major problem with Nigeria's politics and economic development. The Balewa government that steered the ship of the nation at political independence from Britain depended on the imperialist dictates of Britain.

ian National Alliance ("NNA"). The NPC saw the move as a way of taking revenge against Awolowo for his actions during the campaigns in the North. In a swift reaction, the NCNC and AG allied themselves and became the United Progressive Grand Alliance ("UPGA").³²

There were impending 1965 Western regional elections. The NPC's motive was to control the West through Akintola. The elections came and Akintola won using federal power to his advantage. The Electoral Commission was alleged to have rigged the elections because of federal pressure. The AG rejected the election. The country was thrown into confusion because riots had started in the Western region. Policing was increased constantly in the West and Tiv areas. The situation deteriorated to the extent that the NPC-controlled federal government conceptualized moves to pour in military troops into the two areas.

Subsequently, young military officers led by Chukwuma 'Kaduna' Nzegwu, a Major in the Nigeria army, decided it was time to effect a change, through "the barrels of the guns." So, on the night of January 15, 1966, they struck, killing in the process, the following prominent Northern politicians: the Prime Minister, Tafawa Balewa; and the Sarduana of Sokoto, Sir Ahmadu Bello. In the West, Chief Samuel Ladoke Akintola, then Premier of the region, was also killed. In the Mid-Western region, Chief Festus Okotie-Eboh, then federal Minister of Finance was killed. There were no casualties in the East.

Though a military intervention suited the political grievances of the era, the manner of its execution engendered little tribal sentiment. And it did, indeed, trigger the first of a chain of *coups d'état* that Nigerians contended with for close to three decades, until the return to democracy on May 29, 1999.

B. *Dawn of The Militaristic Era In Nigeria*

The smoldering volcano of rampage, arson, pillage, and jungle justice, triggered off by the allegations that the Western

32. Chief Awolowo was subsequently tried (with some prominent members of his group, which included Chief Anthony Enahoro and Chief Lateef Jakunde) on the charges of treasonable felony and conspiracy and jailed in 1963. They were released on August 2, 1966 by General Yakubu Gowon, who succeeded late General Ironsi as Commander-in-Chief and Head of State of Nigeria in the aftermath of the January 15, 1966 military *coup* in Nigeria.

region elections were rigged, provided a fertile ground for the military to seize power on January 15, 1966. Announcing the reasons for the *coup*, Major C.K. Nzegwu, said:

In the name of the Supreme Council of the Revolution of the Nigerian Armed Forces, I declare martial law over the Northern provinces of Nigeria . . . We seized power to stamp out tribalism, nepotism and regionalism . . . The constitution is suspended and the regional government and elected assemblies are hereby dissolved. All political parties, cultural, tribal and trade union activities, together with all demonstrations and unauthorized gatherings, excluding religious worships, are banned until we established a strong, united and prosperous nation, free from corruption and internal strife . . . All treaty obligations previously entered into with any foreign nation will be respected, and we hope that such nations will respect our country's territorial integrity and will avoid taking sides with enemies of the revolution and enemies of the people . . .³³

At the same time, in exercise of his constitutional prerogatives as the Senate president, Dr. Nwafor Orizu, who by virtue of his office was then the Acting President of the Federal Republic of Nigeria, made the following broadcast to the nation:

I have to-night been advised by the Council of Ministers that they had come to the unanimous decision voluntarily to hand over administration of the country to the armed forces of the Republic with immediate effect . . . I will now call upon the General Officer Commanding Nigerian Army, Major General Aguiyi-Ironsi, to make a statement to the nation on the policy of the administration. . . .³⁴

Johnson Umunakwe Aguiyi-Ironsi, Major General of the Nigeria Army, of Igbo ethnic origin, took up his army and aborted the "revolution" led by Major Nzegwu, who was also Igbo. The late General Aguiyi-Ironsi thus became the first indigenous (Nigerian) Commander-in-Chief of the Armed Forces of Nigeria. The General knew the ailments afflicting the country but his approach to them did not quite address the issues. The plotters of the January revolution were arrested, but were not tried. Gen-

33. OJIAGO, *supra* note 30.

34. *Id.* at 6. One major factor that informed military intervention in Nigeria in 1966, was the state of disarray in the NPC-NCNC coalition and the consequent failure to exercise appropriate political influence on the government.

eral Aguiyi-Ironsi probably thought that the appointment of Lt. Colonel Yakubo Gowon (as he then was), who was a Northerner, as his Chief of Army Staff could heal the wounds and grievances of Northerners who felt cheated by the trend of events.

General Aguiyi-Ironsi, in the military tradition, announced decrees³⁵ for suspending parts of the federal constitution, the offices of the President and Prime Minister, and establishing a military government in each of the four regions.³⁶ He appointed the following regional governors: Lt. Colonels Chukwuemeka Odumegwu Ojukwu (East), F.A. Fajuyi (West), David A. Ejor (Mid-West), and Hassan Katsina (North). Of all the reforms introduced by the new administration, the climax was the replacement of federalism with the unitary system of government. Northerners felt cheated and unveiled their fear of the implication of Igbo³⁷ domination by agitating vehemently for an abrogation of the unitary system. Ironsi's reason for the unitary system was that the federal system had forced politicians to play on tribal passions to cement their supporters and thus had driven a wedge between the country's regions.³⁸

C. *The Revenge Coup*

The January 15, 1966 revolution was widely interpreted in many quarters, including the British Broadcasting Corporation ("BBC") in ethnic terms. The insinuations that the Igbo master plan was to dominate the polity and dictate the pace of events rather than a bid for clean government (in the language of the *coup* makers) prompted Northern officers in the armed forces to over throw General Ironsi's military government.

So, on July 29, 1966, while Ironsi was on an official visit to the Western region, the Northern officers mutinied, arrested General Aguiyi-Ironsi at Ibadan, and killed him along with his host, Lt. Colonel Fajuyi (Governor of the Western region), de-

35. See, e.g., The Constitution (Suspension and Modification) Decree No. 1 (1966). By Decree No. 34 of May 24, 1966, the Military dissolved all existing political parties and prohibited the formation of new ones. See also OJIAKO, *supra* note 30, at 18.

36. OJIAKO, *supra* note 30, at 23.

37. Of all the fourteen principal planners of the 1966 *coup*, only two were non-Igbo. But see M.O. Ene, *Unsettling Accounts About Biafra*, NIGERIAWORLD, May 9, 2000, available at <http://www.nigeriaworld.com/feature/publication/ene/0509400.html> (rejoinder to Edwin Madunagu, *Settling Accounts with Biafra*).

38. OJIAKO, *supra* note 30, at 3-7.

spite vehement resistance by the latter for the mutineers to spare the life of his guest.

Meanwhile, in the North, Igbo were massacred in large numbers and their properties destroyed. The hostilities continued for several days. In a national broadcast on August 1, 1967, Colonel Yakubu Gowon told the aggrieved nation that he had been brought to the position of "having to shoulder the great responsibilities of this country and the armed forces with the consent of majority of the members of the Supreme Military Council" At Enugu on the same day, Lt. Colonel C. O. Ojukwu, Eastern Military Governor, said that the "brutal and planned annihilation of officers of Eastern Nigeria origin had cast serious doubt as to whether they could ever sincerely live together as members of a nation" ³⁹ Disturbances broke out in many parts of the country. For days nothing happened all over the territory except killings, looting, arson, and general confusion.

D. Coloration of Events

1. Principal Actors and Victims in the January 15, 1966 Revolution

Actors

Majors

Chukwuma K. Nzegwu	Igbo
Emmanuel Ifeajuna	Igbo
D. Okafor	Igbo
C.I. Anuforo	Igbo
I.H. Chukuka	Igbo
T. Onwuatiegwu	Igbo
Adegboyega	non-Igbo

Captains

G.O. Oji	Igbo
Gbulie	Igbo
E.N. Nwobosi	Igbo
Lt. B.O.O. Oyewole	non-Igbo

2nd Lts.

N.S. Wokocha	Igbo
Ojukwu	Igbo
Azubuogu	Igbo

39. *Id.* at 48.

Victims

Brigadiers

Sam A. Ademulegun	not Igbo
Z. Maimalari	not Igbo

Colonels

K. Mohamed	not Igbo
Ralf A. Sodeinde	not Igbo

Lt. Cols.

Y. Paur	not Igbo
A.C. Unegbu	Igbo

<i>Major</i> Sam. Adegoke	not Igbo
---------------------------	----------

2. Principal Actors and Victims in the Counter-*coup* of July 29, 1966

Actors

The counter-*coup* was masterminded and executed entirely by Northern officers in the army.

Victims

Lt. Colonels

I.C. Okoro	Igbo
G. Okonweze	Igbo

Majors

T.E. Nzeogwu	Igbo
B. Nnamani	Igbo
C.C. Emelifeonwu	Igbo
J.I. Obienue	Igbo
P.C. Obi	Igbo
Ibanga Ekanem	not Igbo
O.U. Isong	not Igbo
A. Drummond	not Igbo

By this roll call, both the January 15, 1966 revolution and the July 29, 1966 counter-*coup*, unequivocally presented ethnic pictures. The July putsch was reactionary and a bold retaliation against the Igbo. It was not surprising therefore, that the Igbo were killed in large numbers in the North.

In an attempt to put the records straight regarding the 1966 *coup* and the subsequent crises, the Federal Government came out with the following statement on January 14, 1967, entitled "Nigeria 1966," listing the names of the soldiers who planned and executed the military *coup* of January 15, 1966:

As far back as December 1964, a small group of Army Officers mainly from the Ibo⁴⁰ ethnic group of Eastern Region dissatisfied with the political development within the Federation began to plot, in collaboration with some civilians, the overthrow of what was then the Government of the Federation of Nigeria and the eventual assumption of power in the country

...

The 1965 plan by the same officers which was executed on January 15, 1966 was hatched out finally in Abeokuta during the All Arms Battle Group Course there. The course was originally planned to be held in Kaduna in Northern Region. But suddenly the Officer Commanding the Nigerian Army, the late Major-General Aguiyi-Ironsi, changed the venue and ordered that the course should be held in Abeokuta. All the officers involved in the plot to overthrow the Government were given assignments to do at the course.

There are five Battalions in the Nigerian army. Prior to the Abeokuta course, three of these were commanded by Ibo officers. One of the two not commanded by Ibo officers was the one at Enugu commanded by the late Lt. Col. Adekunle Fajuyi (A Yoruba officer). To pave the way for an almost all-Ibo command, Major-General Aguiyi-Ironsi sent Fajuyi to conduct the Abeokuta course. So on the eve of the *coup*, four of the five battalions of the Army were under the command of Ibo officers. This was done to facilitate the command in case members of the army revolted against the coup.

The coup was termed among the plotters "Exercise Damissa" which translated from its Hausa language means "Exercise Tiger."

Although the original plan stipulated that the action intended by the plotters should take place simultaneously in all the regional capitals (Kaduna, Ibadan, Enugu, Benin and Lagos), all available information indicates that there was in fact no intention to carry out the plan in Benin and Enugu. In Benin, an Ibo man of Mid-West origin was Premier and head of the Regional Government while in Enugu another Ibo man was Premier and head of East Regional Government.

40. "Ibo" or "Igbo" can mean the same thing: "the people." There is the belief that "Ibo" is the English version of "Igbo." Sometimes "Igbo" stands for the language while "Ibo" is employed to suggest the people. In this Article I use "Igbo" to mean the entire "Igbo" as an ethnic nation, as well as the language (where applicable). Where reference is made to one particular individual who is "Igbo" by nationality, I use "Igboman" for emphasis, in the singular form. "Ndigbo" means Igbo or Ibo as an ethnic group.

The plotters brought in some junior officers and other ranks to assist in the execution of their plans, on the threat of death if they refused to collaborate, others participated as soldiers obeying instructions although some joined the revolt of their own free will.

- In charge of the Lagos operation of the plot were Captain Oji, Major E. Ifeajuna, Major I. Anuforo, Major I.H. Chukuka, Major D. Okafor and Major Ademoyega.
- In charge of the Ibadan operation were Captain E.N. Nwobosi, Second Lt. N. S. Wokocha, Lt. B. O. Oyewole and Captain Gbulie.
- In charge of Kaduna operation were Major C.K. Nzegwu, Major T. Onwuatiegwu, Second Lt. Azubuogu and Second Lt. Ojukwu.

Lt. Col. O. Ojukwu seized Kano Airport operation on January 15 and 16 and was later appointed Military Governor of Eastern Group of Provinces by the former Head of State Major-General Aguiyi-Ironsi, Lt. Col. Ojukwu was then the battalion commander of 5th Battalion at Kano.

After Lt. Col. Ojukwu had seized Kano Airport on Saturday, January 15, he took the Emir of Kano, Alhaji Ado Bayero, from his palace to the barracks, sent away the Emir's councilors and the Provincial Commissioner and asked the Emir to come and make a broadcast to his people informing them that a new Government had taken over. All these happened ever before Major-General Ironsi announced taking over the Federal Government in Lagos from the Civilian Government.

The plan of the army officers appeared to have been successfully carried out in Kaduna and Ibadan but in Lagos the *coup* was foiled by the intervention of the bulk of the Nigerian Army.⁴¹

The implication of the above text is a clear indictment of the Igbo over the military *coup* of January 15, 1966. From its content, it had every element of authenticity. But, it could equally have been propaganda to justify the counter-*coup* of July 29, 1966. Whichever position one is inclined to take, the importance of the text is that it has, for thirty-four years remained the foundation upon which the plight suffered by the Igbo in the present day Nigeria is based.

41. AKINNOLA, *supra* note 30.

As a result, Colonel Ojukwu, after consulting with Igbo leaders, opted for secession, under the name of Republic of Biafra.⁴² The bitter civil war that resulted from the declaration of the Republic of Biafra by the Eastern region government in May 1967 was fought for thirty months, ending in January 1970.

Presenting a keynote address on September 3, 2001, at a conference organized by the Program on Ethnic and Federal Studies ("PEFS") of the University of Ibadan, Nigeria, on the topic "The Civil War and Its Aftermath" former Head of State of Nigeria and beneficiary of the northern-led counter coup of July 29, 1966, who also fought the civil war in that capacity, General Yakubu Gowon, claimed that the war resulted from the euphoria of Nigerian's independence, and the struggle after independence between regional leaders for social and political space.⁴³ He also said:

[I]t was the first time since amalgamation of 1914 that our indigenous leadership was in full control of political power . . . [T]he failure of the Aburi meeting . . . and the outbreak of ethnic hostilities and the indiscriminate killings in the North and East further complicated and aggravated the situation. . . . There was also the growing inter-ethnic rivalry and suspicion between the three major ethnic groups—Hausa/Fulani, Igbo and Yoruba⁴⁴

In what was termed his first formal comment on the civil war since the overthrow of his administration in 1975, the General added:

The January 1966 coup with its selective killings and the subsequent reactions all these and other factors exacerbated the tension and distrust amongst especially the three major ethnic groups in the country that contributed in no small way to the collapse of the First Republic. Indeed the so-called

42. The civil war that ensued after all peace negotiations failed, ended on January 12, 1970, with the surrender of the Biafran army. General Gowon, at the secession of hostilities, announced "a no victor, no vanquished" and promised to reconcile, reconstruct, and rehabilitate the nation. Not much has been achieved in this regard, hence the cry of marginalization by the Igbo for going into war against the rest of the country.

43. *Why We Fought Civil War—Gowon*, *THISDAY NEWS*, Sept. 4, 2001, available at <http://www.thisdayonline.com/archive/2001/09/04/20010904news03.html>.

44. *Id. War and Ethnicity: Global Connection and Local Violence* (David Turton ed., 1997), examined the causes of internal war, the techniques used by nationalist politicians and intellectuals to turn ethnicity into a powerful political resource, and the response of the U.N. and of nongovernmental agencies.

'young Turks', Nzegwu and co. used this as their rationale for staging the January 1966 coup.⁴⁵

Since the end of the civil war in 1970, nine military *coups* have taken place in Nigeria. While four succeeded and effectively ran governments, the rest failed due to timely intervention by the government in power to foil those attempting overthrow by force.⁴⁶

The sudden demise of General Sani Abacha on June 8, 1998, paved the way for a return to democracy in Nigeria. General Abdusalami Abubakar, who succeeded the late dictator, put a transition program in place, which was pragmatically executed resulting in democratically elected president and return to democratic regime. Thus, the era of militarism came to an end on May 29, 1999, when Chief Olusegun Obasanjo, was inaugurated as the President of the Federal Republic of Nigeria.

One of the steps taken by General Abubakar upon assuming leadership was to produce a new constitution for Nigeria. In the end of the process, the 1979 Constitution was adopted, with slight changes, as the Constitution of the Federal Republic of Nigeria, 1999. As a result of the return to democracy, Nigeria's

45. *Why We Fought Civil War*—Gowon, *supra* note 43.

46. Of the foiled *coup* attempts, the one that had the most ethnic/sectional undertone was the April 22, 1990 *coup* by Major Gideon Orkar, as was evident in his *coup* broadcast to the nation:

Fellow Nigerian citizens, on behalf of the patriotic and well meaning peoples of the Middle Belt and Southern parts of this country, I, Major Gideon Gwarzo Orkar, wish to happily inform you of the 'successful ousting of the dictatorial, corrupt, drug-baronish, inhuman, sadistic, deceitful, homosexually-centered, oligaristic and un-patriotic administration of General Ibrahim Badamosi Babangida.

We have equally commenced their trials for unabated corruption, mismanagement of nation's economy, the murders of Dele Giwa, Major-General M.J. Vatsa and other officers as theirs was not an attempted *coup*, but mere intentions that were yet to materialize and other human rights violations . . .

The disgraceful and inexplicable removal of Commodore Ebitu Ukiwe, Professor Tam David-West, Mr. Aret Adams and so on . . .

In the light of all the above and in recognition of the negativeness (sic) of the aforementioned aristocratic factor, the overall progress of the Nigerian States, a temporary decision to excise the following states namely: Sokoto, Borno, Katsina, Kano and Bauchi States from the Federal Republic of Nigeria comes into effect immediately . . .

Gideon Orkar's Memorial Speech, Apr. 1990, available in AKINNOLA, *supra* note 30, at 41-45. Unlike the previous *coup* broadcasts which sought to unite Nigerians by justifying their actions on points of national interest, this *coup* emphasized the division of Nigeria by excising five of the component States in the federation.

political history changed, but has combined a new political problem with pre-existing socio-economic, cultural, religious, and ethnic ones. With democracy in place, it is hoped that the human rights and fundamental freedoms of the citizenry as entrenched in the Constitution shall guide governmental actions for the benefit of all and for the continued unity and good governance in Nigeria.

The efforts of President Olusegun Obasanjo in his two-year old administration have put the country back into its rightful place in the comity of nations.⁴⁷ However, while a lot has been achieved, much more remains to be addressed, particularly, the issue of the unity of the nation. The re-integration of the Igbo, as well as other ethnic groups and zones, whose interests are not fully addressed at the center, should not be taken for granted.

III. *CONSTITUTIONAL GUARANTEES OF HUMAN RIGHTS*

Upon attainment of independence former colonies in Africa set themselves up as passionate defenders of human rights. Their various constitutions contained fairly elaborate chapters on human rights and fundamental freedoms thereby making these rights positive law enforceable in the courts.⁴⁸ Stressing the importance of this development, the late Sir Tafawa Balewa said "[w]e felt that this was a subject of such tremendous importance that the human rights should not be left hidden here and there in a legal maze, and we insisted on having a special chapter of our constitution devoted to the exposition of those fundamental human rights."⁴⁹

All past and present Nigerian constitutions contain constitutional guarantees necessary for the unity and progress of the country, and peaceful co-existence of the various ethnic nations

47. The return to democracy has enhanced the re-integration of Nigeria into the international community. The prolonged military dictatorships in Nigeria, and especially the regime of late General Sani Abacha with its unprecedented record of human rights violations caused many countries to sever relations with Nigeria, the most felt being the Commonwealth of Nations. Travel restrictions and economic embargoes were placed on Nigeria, and innocent Nigerians intending to travel abroad were subjected to inhuman and degrading treatments in the hands of some foreign consulates and entry ports in some countries.

48. OSITA EZE, *HUMAN RIGHTS IN AFRICA: SOME SELECTED PROBLEMS* 23 (1984).

49. The first Prime Minister of Nigeria at an African Conference on the Rule of Law, held in Lagos in 1961. This view was reflected in the Republican Constitution of 1963 (Chapter III) and embodied in all subsequent Nigerian constitutions.

that the country is composed of. The recitals of the 1999 Constitution, adapted to that of 1979, provides:

We the people of the Federal Republic of Nigeria having firmly and solemnly Resolve, to live in unity and harmony as one indivisible and indissoluble Sovereign nation under God, dedicated to the promotion of inter-African Solidarity, world peace, international cooperation and understanding, and to provide for a Constitution for all purpose of promoting the good government and welfare of all persons in our country, on the principles of freedom, equality and justice, and for the purpose of consolidating the unity of our people⁵⁰

But for a few additions, some of which are cosmetic rather than substantive, both the 1979 and 1999 constitutions are similar in their respective provisions and both aim at creating a federal constitution with a strong center.⁵¹ Although both constitutions were modeled after the Constitution of the United States, there is a remarkable point of difference in the coinage of the recitals to the latter. The U.S. Constitution starts by proclaiming that "the people of the United States, in order to form a more perfect union"⁵² The wording of the U.S. Constitution bears testimony to a systematic and voluntary nature of unification of the component States with the constitutional recognition and acceptability for the individuality of each State.⁵³ The Nigerian Constitution talked more of the indissolubility and indivisibility of the nation, even though each unit or State was originally carved out from one or more of the composing States.⁵⁴ Professor Abiola Ojo explains that such recitals contained in the Nigerian Constitutions were cynical. The truth, according to him was that "the military government made, enacted and gave the peo-

50. NIG. CONST. (1999) pmbl.

51. See Chief Afe Babalola, *The 1979 and 1999 Constitutions: A Comparative Analysis*, NIG. TRIB., June 7, 1999.

52. U.S. CONST. pmbl.

53. Nevertheless, the legal worthlessness or artificiality of recitals to the U.S. Constitution's Preamble was stated by the decision of the Supreme Court of the United States of America in *Jacobson v. Massachusetts*. In that case it was held that "[a]lthough [the] Preamble indicates the general purposes for which the people ordained and established the Constitution, it has never been regarded as the source of any substantive power conferred on the Government of the United States or on any of its Departments." 197 U.S. 11, 22 (1905).

54. Babalola, *supra* note 51, at 7.

ple of Nigeria the constitution.”⁵⁵ This point is further reinforced by the fact that the Supreme Military Council (“SMC”) took it upon itself to modify what was submitted to it by the Constituent Assembly. Aside from being undemocratic and arbitrary, the constitution was, particularly by this act, robbed of its autochthonous character as being a product of the will of the people of Nigeria.⁵⁶

An overview of the pre-independence constitutional development of Nigeria revealed a common feature of all the colonial constitutions. None was designed to build a strong nation. Although the pre-independence constitutions created a defective political framework for Nigeria, it is my view that post-independence constitutional efforts by Nigerians at constitution making have, to a reasonable extent, covered vital aspects of the historical antecedents of the nation. The problem lies squarely with the implementation of the constitution, not necessarily with its content. In a well-established democratic regime, the constitution is subject to amendments. According to human rights crusader, Chief Gani Fawehinmi:

“[t]here was nothing wrong with the 1979 constitution. Our problem is the caliber of the operators, who were vampire. I have read the constitution. I have practiced it. I have gone to court with it. The problems attributed to the constitution are imaginary. If you give a good constitution to a rogue to operate, he will destroy it”⁵⁷

While it seems suspect that the majority of the post-independence constitutions in Nigeria were the products of military regimes, this fact does not delegitimize these texts. The wisdom and vision exhibited in the making of Nigeria’s recent constitu-

55. See Femi Adaramoye, *Revisiting the 1999 Constitution*, NIG. GUARDIAN, June 22, 1999, at 7.

56. *Id.*

57. Gani Fawehinmi, (Interview) NEWSWATCH, Sept. 21, 1987. It is pertinent to observe here that constitutionalism is distinct from the on-going agitation in some circles in Nigeria for a Sovereign National Conference (“SNC”). Proponents of the SNC argue that it would afford Nigerians the opportunity to discuss fundamental issues that touch on the sovereignty and unity of the nation-State. It is their belief that the national question cannot be wished away. Of course, it cannot be resolved over night to everyone’s satisfaction. But it can be managed sensitively and imaginatively to mitigate the bitterness and deep-rooted complaints of several nationalities within the Nigerian fold. Ultimately, the outcome of any eventual SNC may lead to fundamental changes in the present federal constitution.

tions are better understood by reference to the 1979 constitutional text, with particular reference to areas and issues that directly relate to, or through which ethnic consciousness often derive. On this premise, the provisions of the 1979 Constitution relating to the fundamental objectives and directive principles of State policy, are noteworthy.

The composition of the Government of the Federation or any of its agencies and the conduct of its affairs shall be carried out in such a manner as to reflect the federal character of Nigeria and the need to promote national unity, and also to command national unity, thereby ensuring that there shall be no predominance of persons from a few states or from a few ethnic or other sectional groups in that Government or in any of its agencies.⁵⁸

Furthermore, article 15(2) provides “accordingly, national integration shall be actively encouraged, whilst discrimination on the grounds of place of origin, sex, religion, status, ethnic or linguistic association or ties shall be prohibited.”⁵⁹ But despite these eloquent constitutional and other legal and administrative provisions, events in the country leave much to be desired. Dr. Femi Ajayi succinctly put it thus:

The civil war ended about three decades ago, the three Rs of Reconciliation, Reconstruction and Rehabilitation recommended by my good friend, Dr. Yakubu Gowon [are] not fully implemented yet. I wonder how long this would take Nigeria Government to do. The Igbos, Isokos, Okrikas, every one is crying marginalization, from Port Harcourt through Sokoto to Maiduguri. I am being marginalized because of my name, my religion, my height, my size, my voice, my education If Nigerians are not exposed to the truth, about the atrocities of the past years of misrule, how can we reconcile Nigerians and relate among ourselves as brothers and sisters. . . . If we do not hear from those that polarized Nigerians, how do we want to have [the] true federalism that we are all yearning for?⁶⁰

58. NIG. CONST. Ch. II, art. 14(3) (1979).

59. *Id.* art. 15(2) (1979).

60. Dr. Femi Ajayi, *The Oputa Commission and the Generals*, NIGERIAWORLD, Aug. 17, 2001, available at <http://www.nigeriaworld.com/columnist/ajayi/081701.html>. The Oputa Commission on Human Rights Violations was set up by the Obasanjo administration to investigate cases of human right abuses during the past military regimes in the country.

Although there are many human rights provisions in the 1979 and 1999 Nigerian constitutions, certain crucial rights are frequently abused. These include the right to freedom of expression and press,⁶¹ the right to peaceful assembly and association,⁶² and the right to freedom from discrimination.⁶³ These rights and fundamental freedoms are suppressed through harsh laws, decrees, and edicts that curb and restrain their enjoyment.

- (1) A citizen of Nigeria of a particular community, ethnic group, place of origin, sex, religion, or political opinion shall not, by reason only that he is such a person:
 - (a) be subjected either expressly by or in the practical application of, any law in force in Nigeria or any executive or administrative action of the government to disabilities or restrictions to which citizens of Nigeria of other communities, ethnic groups, place of origin, sex, religions, or political opinions, are not made subject, or,
 - (b) be accorded either expressly by, or in the practical application of, law in force in Nigeria or any executive or administrative action, any privilege or advantage that is not accorded to citizens of Nigeria of other communities, ethnic group, places of origin, sex, religions or political opinion.
- (2) No citizen of Nigeria shall be subjected to any disability or deprivation merely by reason of the circumstances of his birth.
- (3) Nothing in sub-section (1) of this section shall invalidate any law by reason only that the law imposes restrictions with respect to the appointment of any person to any office under the state or as a member of the armed forces of the Federation or as a member of the Nigeria Police Force or to an office in the service of a body corporate established directly by law in force in Nigeria.⁶⁴

This section of the Constitution is the most abused by the government of the Federation and its agencies. Discrimination against certain ethnic groups are committed in all sectors of national endeavor including, *inter alia*, employment; promotion; education, especially with regard to admission and financial as-

61. NIG. CONST. art. 39 (1999).

62. *Id.* art. 40.

63. *Id.* art. 42.

64. *Id.*

sistance to indigent students; and appointments to strategic military and civil responsibilities, police, and political offices. Selected ethnic nationals within the Federation take all the contracts that government awards, because their friends and family happen to occupy strategic positions in government and government owned corporations.

Injustice has resulted from this state of affairs, and a number of disfavored ethnic groups are crying out for redress. Prominent among these groups are the Igbo, whose marginalization in Nigeria has been overtly acknowledged, even by the *marginalizers* themselves.

IV. MARGINALIZATION⁶⁵

A. *Intolerance In Nigeria: Old or New Phobia?*

The plight of the Igbo ethnic group in Nigeria was aptly

65. The term "marginalization" has gained topicality in the discourse about the plight of some ethnic groups in Nigeria, particularly the Igbo. I have used it in that sense here, for the risk of being misunderstood. This is because I have some reservations about its adequacy in describing the present plight of the Igbo. The Igbo have, between 1970 and present, gone through the following stages: Identification, Marginalization, Vilification, and what they are experiencing presently is the Criminalization stage. The last stage will be eventual Persecution. The first of these stages occurred during the events that led to the civil war. The monetary and other policies of the Federal government on the defeated Biafra (e.g: the awarding of twenty pounds sterling to each household in exchange for whatever was the worth of such household's bank account) amounted to Marginalization. One definition of marginalize is to "make or treat as insignificant . . ." which is not true of the Igbo's plight in present day Nigeria. OXFORD AMERICAN DICTIONARY AND LANGUAGE GUIDE 607 (1999). A marginalized group is systematically excluded, or not fully involved, in the distribution, options, resources, and possibilities offered by societies and economies. Poverty, therefore, usually accompanies marginalization. Both poverty and marginalization are not incidental phenomena, but are structurally related to the way economic and social systems function. That is, systems of production, labor use, and distribution have embedded within them mechanisms that lead to poverty and marginalization. There are a variety of reasons for this: the low productivity or poor organization of labor, because of the ways in which the benefits of production are shared, and because of institutions or patterns of organization of production which limit access or marginalize groups who lack certain characteristics or abilities. Economically, the Igbo are doing well and are not denied their federal allocations and other benefits. The Criminalization stage stems from the fact the Igbo are adjudged guilty of their failed secession bid. This justifies the postulation that the Igbo are subjected to political exclusion in Nigeria today, short of being sent to jail *en masse*. Therefore, criminalization automatically implies exclusion. This explains the reason that no Igbo man is considered for a meaningful position in the armed forces, police, or in any of the numerous national security agencies. That candidates of Igbo ethnic origin seeking admission into tertiary institutions are denied admission despite their

described in an interview by Chief Alex Akinyele, who was charged with the responsibility of national reconciliation under the dictatorship of late General Abacha:

The question you asked me has been engaging my mind within the last few years. On March 10, 1998, at Enugu State House of Assembly, at a seminar organized by the national reconciliation committee, I was opportuned (sic) to hear the general view of Ndigbo on the issue of marginalization. On that occasion, Chief Odumegwu Ojukwu spoke for the entire Ndigbo. After that, Dr. Alex Ekwueme made the conclusion. There was no news of political, economic and institutional consequence, that was not there. I listened attentively. Now, Ndigbo have cried out again and I think they have a point. I think that Ndigbo is marginalized. In my position as chairman of the national reconciliation committee, I went to all five states of Ndigbo and their complaints were a chorus of marginalization. The question of Igbo marginalization did not start today. It started with the war of 1967 or whatever led to the civil war. . . . They should have been rehabilitated in the armed forces and police forces. . . . But you don't blame Obasanjo for Igbo marginalisation. It started from the time of Gowon to that of Murtala Mohammed. . . . I want to advise that Ndigbo should give President Obasanjo time to right all the wrongs done to them. . . . But I must also add that there are so many marginalised groups in Nigeria but the case of Ndigbo is too obvious. They are more marginalized than the others. . . .⁶⁶

high scores, while those from the North or other so-called backward states are considered even with lesser grades, is not marginalization. And again, in applying the term marginalization, it is necessary to draw a line as to who it effects more negatively than others, the masses or the politicians, hence it becomes worthwhile to clearly define the term before its analytical value is exploited. The loose manner in which its use has become fashionable in various discursive platforms in the country seems out of context with the practical political reality of Nigeria. Although the Igbo were instrumental in forming the PDP, the party currently in power, they are no longer in control of that party. The rest of Nigeria does not regard the Igbo as insignificant. Rather, it sees the Igboman as a genius, whose know-how and stature are better avoided for fear of a reenactment of the days prior to Biafra. Certain utterances by some prominent Nigerians, some of which I have quoted in this paper, go a long way to supporting the Exclusion theory.

66. Chief Alex Akinyele, *VANGUARD NEWSPAPER*, Interview, Oct. 25, 1999. Convincing as the above sentiments may sound, one wonders why during the many years the respected Chief was the chairman of the reconciliation committee nothing, even a Memo, was not raised which addressed the marginalization of Igbo. Furthermore, he failed to justify his exoneration of General Obasanjo's regime that succeeded Murtala Muhammed's, and eventually handed over to Shagari in 1979. Is he playing on the

The relevance of the above statement to this project is to show that an ethnic problem actually exists in Nigeria, which may be termed "Igbo-phobia."⁶⁷ The Igbo have heard and had enough of such rhetoric. All that the Igbo deserve is a practical action geared toward bridging the gap in the power equation that will lead to a policy of *inclusion* of the Igbo. The marginalization chorus has been over labored and the slogan must change in a positive direction, indicating the initiatives taken by Ndigbo toward their reintegration into the mainstream of national politics.

B. *The Aftermath of the Civil War*

The defeat, and the stigma resulting from the loss of the Biafra civil war are the main factors that facilitated the incidence of exclusion or marginalization of the Igbo from the mainstream political and economic activities in Nigeria. At the end of the British colonization, the Igbo dominated Nigeria's economic activities, thereby exercising indigenous colonialism. They were instrumental in the development of almost all the major cities in Nigeria, including Lagos, Kano, Port Harcourt, and Calabar.⁶⁸ These cities are the most boisterous of modern Nigeria and are all located outside the realm of Igboland. On the national stage, the Igbo commitment to building a strong and indivisible federation was uncontestable.⁶⁹

The Igbo decision to secede was a direct consequence of the inability of the federal government of the time to guarantee the

intelligence of Ndigbo? Or, are Ndigbo so naïve and/or ignorant of Nigeria's historical antecedents and political dynamics?

67. It may not be off the point to suggest that either the Chief was in search of a job, or expressing guilty conscience in disguise, considering the fact that his press conference coincided with an official visit he paid the incumbent, President Obasanjo, at the seat of power at Abuja.

68. See, e.g., Ene, *supra* note 37, at 20; Chike E. Okafor, *Igbo Marginalization: Time to Look Within*, NIGERIAWORLD, Oct. 27, 1999.

69. This viewpoint is well grounded in historical antecedents. In the footsteps of Dr. Nnamdi Azikiwe (first president of the federation), Dr. Michael Okpara, Chief Denis Osadebey, Dr. K.O. Mbadiwe, Dr. Akanu Ibiam, Dr. Nwafor Orizu, Chiefs Muokwugo Okoye, Z.C. Obi, R.B.K. Okafor, Mazi Mbonu Ojike, Dr. Ben. O. Nzeribe, M.C.K. Ajuluchukwu, among others, were in the forefront of the nationalist struggle for self-rule. As a major component of the Nigerian society, the Igbo played significant roles in the post-colonial armed forces, federal bureaucracy, academia, and the establishment of indigenously controlled commercial network across the country. Such a position may have contributed to the envious hostility that energized the 1966-67 genocidal internal armed hostilities that cost millions of lives.

safety of their lives and property.⁷⁰ As a result, the Igbo have been marginalized and this state of affairs has continued to affect the nation's foundation. It has assumed the dimension of *faits accomplis* and no solutions seem to be in sight.

Igbo marginalization has been far-reaching. In the armed forces the highest rank any Igboman has ever attained since the end of hostilities was Brigadier-General or its equivalent in other branches of the armed forces. In the police force, an Igboman has never been appointed the Inspector-General of Police for the country. Very brilliant Igbo officers in the uniformed organizations in Nigeria end up in the classrooms, teaching or instructing young recruits. No Igboman heads any of the nation's thirty-six state police commands in the rank of Police Commissioner. The few "lucky" ones who managed to wear that rank are best considered as Commandants of police colleges and such other less important, less strategic, or insignificant deployments. The nation's security services outfits are a 'no go' areas for Igbo. This policy of exclusion serves to ensure and perpetuate what is widely termed the *Igbo marginalization* in Nigeria.

The human problems associated with the denial or lack of opportunity for an individual or group to participate in the running of state affairs are enormous. It causes a feeling of frustration, neglect, and alienation from the economic and social system as well as a lack of professional fulfillment. Furthermore, if the alienation becomes large-scale, it may cause social unrest and crime, and a general unwillingness for those affected to offer their necessary support to the political system. Consequently, such a situation can lead to social injustice and inequality, and constitutes a denial of the fundamental rights of citizens to engage in gainful employment or exercise of their professions.

C. *Igbophobia*

The first step in the progression toward persecution of persons is identification.⁷¹ The Igbo have been identified, largely a result of the Biafran misadventure. The Igbo have been the

70. See Okenwa Nwosu, *Strategic Interest of the Igbos in the New Millennium*, NIGERIAWORLD, Oct. 13, 1999, available at http://www.nigeriaworld.com/feature/publication/nwosu/igbo_millennium.html.

71. *The Politics of Hate*, available at <http://www.jeremiahproject.com/prophecy/warxian3.html>.

targets of numerous hostile attitudes from the majority of their fellow citizens. Igbo all over the country lost everything to the war. At the end of the same war, their property, including houses and other landed properties were either seized or confiscated, not only by ordinary citizens, but in most instances, by some local government agencies on whose territories such properties were located. It was so in Port Harcourt, Calabar, Kano, Kaduna, Jos, Lagos, and Ibadan. Those Igbo who survived the civil war, hoping to rehabilitate themselves, were instead dragged into a marathon of court litigations in their bid to recover and repossess what became known then as "abandoned property." Others, less fortunate, faced jungle justice and did not live to tell the story. The war continued. To many Igbo, the war is still raging on.

After the war ended in 1970, systematic disenfranchisement of the Igbo was put in place. The post-civil war national politics were in many respects predicated on an unspoken tacit agreement by certain interest groups to regard the marginalization of the Igbo as an essential ingredient for fashioning their vision of a post-war Nigeria.

In retrospect, the activities of the federal government against the Igbo might have seemed necessary in order to deal with the prevailing circumstances of the time. But the non-implementation of the Reconciliation, Reconstruction, and Rehabilitation policies announced by General Yakubu Gowon after the war ended in 1970, may have given impetus to the post civil war injustices and acts directed at the Igbo ethnic group. The Igbophobic tendencies of the ruling class in Nigeria show the extent of ethnic biases in the country.⁷²

In 1990, General Olusegun Obasanjo, was quoted as having made the following remarks:

Any word, deed or act that would lead to disaffection and Biafranization of Nigeria, on whatever pretence, excuse or pretext stands condemned and all perpetrators regarded as

72. Umaru Dikko, erstwhile Federal Minister under Shagari's regime (1979-1983) once "threatened the South-west about what happened to the Igbos in 1966," apparently referring to the pogrom, looting, arson, and vandalizing of the Igbo in the Northern part of the country, and civil war that completed the designed genocide committed against the Igbo nation. In a similar vein, another front line politician from the North, Abubakar Umar, once remarked that "Nigerians are not yet ready for an Igbo President."

public enemy number one and fought as such.⁷³

The name, Biafra, no doubt means a lot to President Obasanjo. As Gbenga Aroyehun rightly observed:

The Biafra war will continue to loom large in the consciousness of Mr. President because the war made him what he is today. He is a soldier, a writer, a politician, a statesman, an international figure, all because of the Biafra war. He distinguished himself in that war when he headed the 3rd Marine Commando, he had the singular honour of receiving the instrument of surrender from General Effiong. His account of the war in his 'My Command' has made him a writer. He became the Head of State and now Mr. President, both he owes to the war and his unflinching belief in the unity of Nigeria.⁷⁴

Nigeria does not want the Igbo to come close, and at the same time it does not want them to go away. In the Igbo cosmology, writes Dr. Afulezi, "there is a saying: Do you kill a man and stand in the way of his going to the spirit world?"⁷⁵

At a public lecture in Lagos, Chief Odumegwu Ojukwu remarked:

The Tivs were in open revolt right from the dawn of independence, the West joined in this revolt in the fourth year of independence, Isaac Adaka Boro proclaimed his republic in the next year. Between 1966-1967 came the massacres of Igbo in the North of Nigeria. One fascinating aspect of all this chaos was that Nigeria only went to war against Ndigbo. The Tiv riots provoked police action and the rebel leader, Joseph Tarka eventually became a national hero. In the West the Action Group which was rebellious was led by Chief Obafemi Awolowo, he too became a national hero. In the Rivers area, Isaac Adaka Boro became a national hero. I have often wondered why in respect of the Igbo resistance it became neces-

73. AFRICAN CONCORD, May 28, 1990. The statement was allegedly made at the launching of a book entitled *Nigeria Since Independence: The First 25 Years*, in Lagos, Nigeria. Although the General was quoted to have made the above remark, his orders to the army and police since becoming President in 1999 have been to wipe out the whole Odi community for demanding their reasonable share or be allowed to control the resources in their land. Similar orders were given to the security agents to shoot-on-sight any member of the pan-Yoruba militia outfit, the O'odua People's Congress ("OPC").

74. Gbenga Aroyehun, *Obasanjo's Obsession with Biafra*, Sept. 20, 2001, at <http://www.allafrica.com/stories/200109200442.html>.

75. Dr. U.N. Afulezi, *The Igbo in Catch 22 Situation*, NIGERIAWORLD, June 16, 2000.

sary to seek the final solution—why this double standard? . . . [T]he Nigeria odyssey of Ndigbo, their journey from slavery, through colonialism to independence, their journey through crisis to crisis, into war into crisis again has been a route-match through the fields of Golgotha.⁷⁶

Nigeria is probably the only country that fought a war and went about wiping away the relics of its legacy. In the process, the victor smoothly and steadfastly kept the vanquished down and out of nation-building efforts.⁷⁷

D. *Federal Character in Education and the Igbo*

The Constitution of Nigeria reflects the composition of the government of the federation or its agencies and enjoins that the conduct of the affairs of government must be carried out in such a way as to reflect the federal character of Nigeria and the need to promote all the peoples of the federation.⁷⁸ The operative expression here is “federal character.” This is defined as:

[t]he distinctive desire of the peoples of Nigeria to promote national unity, foster national loyalty and give every citizen of Nigeria a sense of belonging to the nation as expressed in section 14(3) and (4) of this constitution.⁷⁹

The federal character expression was also designed to ensure that Nigerian citizens have the opportunity to participate in the affairs of the nation. Accordingly, federal character expression seeks to ensure that there will be no predominance of persons from any few States or from a few ethnic or other sectional groups in any government of the federation or in any of its agencies.

The rights to freedom from discriminatory treatment on grounds of place or ethnic or linguistic association is a necessity for national integration, particularly when both the heterogene-

76. Chief Emeka Odumegwu Ojukwu, Nigeria: The Truths Which Are Self-Evident, Address at the TSM 2nd Diamond Lecture to Mark the Fourth Anniversary of the Magazine (Feb. 22, 1994).

77. M.O. Ene, *Biafra Lives*, NIGERIAWORLD, Letters and Viewpoints, May 30, 2000.

78. NIG. CONST. art. 14 (1999).

79. *Id.* art. 318. The fallout from the divisive tendencies of the federal character issue include the bi-polar perception of most national issues, the fierce competition among the three major ethnic groups for political and economic advantage mostly at the expense of the other multifarious groups, the Muslim-Christian dichotomy, and the all-inclusive indigene politics of keeping out “non-indigenes” from their individual turfs.

ity of the Nigerian society and the human tendency to place his sectional interest above his national interest are considered. It is against the background of this constitutional provisions coupled with the numerous international treaties to which Nigeria is party, that one wonders what constitutes the basis of what I chose to call a "Xenophobic-Igbophobism," by which I mean to suggest that the Igbo are not only considered 'external,' but also 'despised' in Nigeria. The notion of federal character is applied in the most negative form *vis-à-vis* the Igbo. This state of affairs is most noticeable in the areas of education, employment, location of government projects, and environmental policy. However, my focus here is on education considering its importance in the building of the minds of the youth toward good citizenship.

Nigeria's Policy on education is "constitutionally guaranteed."⁸⁰ In principle, the nation's educational objective is based on the integration of the individual into a sound and effective citizen through equal education opportunities for all citizens of the nation at the primary, secondary and tertiary levels, both inside and outside the formal school system. Accordingly, the Constitution enjoins the government to direct its policy towards ensuring that there are equal and adequate educational opportunities at all levels,⁸¹ and further that "Government shall strive to eradicate illiteracy; and to this end, Government shall as and when practicable provide (a) free, compulsory and universal primary education, (b) free secondary education, (c) free university education, and (d) free adult literacy program."⁸²

Education is a principal channel of culture. The UDHR recognized the importance of education when it proclaimed that: "everyone has the right to education, and that education shall be free, at least in the elementary and fundamental stages."⁸³ It follows that the education policy of Nigeria is in tandem with the universally accepted standard, which recognizes education as a fundamental right of every person.

80. NIG. CONST. art. 18 (1999). Various National Policies of Education in the past were not applied religiously as each succeeding regime went about education its own way. It is, however noteworthy and commendable that such policies are now built into the federal constitution. See, e.g., NATIONAL POLICIES OF EDUCATION (1977) (on file with author); NERC Press, Yaba, Lagos (1981) (on file with author).

81. NIG. CONST. art. 18 (1999).

82. *Id.*

83. UDHR, *supra* note 1, art. 26.

The reality in Nigeria does not live up to these standards. Unequal distribution of educational facilities and materials is an abuse of the rights of those disfavored by such act or cautious omission to do what is right. The discriminatory admission policy of government, from an objective standpoint, disfavors candidates of the Igbo origin. Because of their numerical strength and performance in the competitive admission tests for university and college admissions, a large number of them are dropped to make space for less qualified candidates from other areas. Other abusive criteria include the "Local Government," and "Educationally Disadvantaged State." In the end, candidates from other states take up all available places in the Igbo area institutions. While being already considered educationally advanced, the Igbo are left with few openings based on merit. The consequence of this is mass withdrawal from attempting the qualifying examinations and from school for the most of Igbo youths.

The unfortunate aspects of this practice is aptly summarized by Senator A. Wabara:

I feel ashamed when I hear Nigerians say that Igbos are very enterprising. What is enterprising about a race which 95 per cent of its youths are hawking on the streets of all the towns in Nigeria and abroad. The result of this . . . is that in the next 50 years, there may be no Igbo graduates. The Igbo race will be a bunch of moneybags and of illiterates. Then the marginalisation design and government neglect would have been accomplished⁸⁴

V. *SELF-DETERMINATION AND THE BIAFRA EXPERIENCE*

Self-determination has evolved through the years to mean different things to different people depending on their political inclination or orientation. To a colonized or dependent territory, it means the right to determine without external interference their political status. To such people, self-determination is their right to sovereign independence.

On the other hand, to a people within a sovereign independent State, self-determination includes their right to participate fully in the main political process of the sovereign State in which their cultural heritage and social and economic identities are

84. *Why the Igbos Must Rethink*, POST EXPRESS, Oct. 11, 1999, available at <http://www.postexpresswired.com>.

recognized and allowed to develop without being unreasonably stultified by the official policy of the State. To those people, the concept of self-determination ensures that every group with a legitimate interest: geographical, national, traditional, cultural, or any other kind, enjoys full democratic rights.⁸⁵ The concept of self-determination has over the years been accepted as a fundamental human right recognized by international customary law.⁸⁶

However, the main controversy associated with the peoples' rights to self-determination is the question of secession. Secession by a people, *stricto sensu*, is an expression of that peoples' right to self-determination. It has been asserted, however, that secession negates the principle of sovereign territories, which is a fundamental principle of international law.

Nevertheless wars of secession have been fought, won or lost, in many parts of the world in recent times. In other places, the break-up of the hitherto sovereign entities such as the ex-Soviet Union, former Federal Republic of Yugoslavia, and elsewhere are predicated on the concept of self-determination.

The U.N. and other international agencies were swift to intervene in the former Yugoslavia, establishing a civil administration under the authority of the United Nations Interim Administrative Mission in Kosovo ("UNMIK").⁸⁷ As with Nigeria between 1967-1970, ethnicity is the main issue in the crises in Bosnia.⁸⁸ By any standard imaginable, the atrocities perpetrated against Biafra by the federal troops were enough to attract a U.N. Peacekeeping mission. However, U.N. Peacekeeping interventions are yet to make a meaningful impact in Sub-Saharan Africa, despite several violent wars that have occurred in that region of the world.

85. The principle of self determination is founded on the liberalism of the seventeenth century, in particular, the American Revolution, *see* Bill of Rights 1776, and the French Revolution, *see* Declaration of the Rights of Man and Citizen 1789. *See also* U. O. UMOZURIKE, SELF-DETERMINATION IN INTERNATIONAL LAW 6 (1972).

86. *See* U.N. CHARTER art. 1, para. 2.

87. U.S. DEP'T OF STATE, YUGOSLAVIA, FEDERAL REPUBLIC OF, COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES, 2000 (2001), *available at* <http://www.state.gov/9/drl/rls/hrrpt/2000/eur/mdex>; S.C. Res. 1244, 4011th mtg., S/RES/1244 (1999) (recognizing the continuing sovereignty of the Federal Republic of Yugoslavia over Kosovo, but calling for 'substantial autonomy and meaningful self-administration').

88. *See* Paul C. Szasz, *The Quest for a Bosnian Constitution: Legal Aspects of the Constitutional Proposals Relating to Bosnia*, 19 FORDHAM INT'L L.J. 363, 407 (1995).

For instance, in the 1960-61 crises in the Congo, the U.N. refused to recognize the right of self-determination of the resource-rich Katanga province to secede presuming that the secession would be disastrous to the remainder of the Congo.⁸⁹ Similarly, although the passionate demand of the people of Biafra to self-determination was widely noted, the "Republic of Biafra" had weak international support, presumably on the grounds that it would be disastrous to the rest of Nigeria, and beyond. The marginal ranking of Africa in the scale of international priorities and, in particular, the polite indifference of the international community in the Biafra cause, was unfortunate.

VI. THE LAWS OF ARMED CONFLICT AND THE BIAFRA EXPERIENCE: "JUS IN BELLO" OR "JUS AD BELLUM"?

The laws applicable in armed conflicts⁹⁰ refer to international rules established by treaty or custom, which are specifically intended to solve humanitarian problems that arise directly from international or non-international armed conflict. These rules are aimed at protecting persons and property that are, or are likely to be, affected by the conflict. It aims also to stall the war-

89. See G.A. Res. 1474, U.N. GAOR, 4th Emergency Session (ES-IV), U.N. Doc. A/4510 (1960).

90. See Antoine A. Bouvier, *International Humanitarian Law and the Law of Armed Conflict*, Lecture at The United Nations Institute for Training and Research (UNITAR-POCI); THE UNITED NATIONS 3 (Dr. Harvey J. Langholtz ed., 2000). The need to protect lives and property during wars had existed as early as 1000 BC. Such prohibitions can be found in many different civilizations throughout the world and throughout history. For example, in many parts of Africa there were specific rules regarding the commencement of hostilities between different peoples that correspond to a large extent, to the classical European traditional obligation of declaring war. In his famous title *The Art of War*, Sun Tzu expressed the idea that wars must be limited to military necessity, and that prisoners of war, wounded, sick, and civilians should be spared. In the Code of Manu, written in 200 BC, rules can be found which relate to behavior in combat. The Code declared that barbed or poisoned weapons were prohibited, that wounded soldiers had to be cared for, and that surrendering combatants must be spared. These examples of humanitarian customs in various civilizations demonstrate that even if the Geneva or Hague Conventions were not universal at inception, since they were drafted and adopted by lawyers and diplomats belonging to the European-Christian culture, their sentiments are nearly universal, since the principles they contain can be found in very different systems of thought, both European and non-European. The main goal of international humanitarian law is to protect the individual victim from conflicts. The first universal treaty on humanitarian law was the Geneva Convention of 1864.

ring parties rights to choose their methods and means of warfare.

The distinction made between *jus in bello* and *jus ad bellum* refers to the principle of international humanitarian law of armed conflict which suggests that while some types of wars can be justified in terms of self-defense (*jus ad bellum*: fighting a war based on just cause), others can be regarded as being fought on the basis of a right to wage a war (*jus in bello*: the principle of fighting a war justly). According to Bouvier, "[t]oday, however, the use of force between states is prohibited by a peremptory rule of international law and the *jus ad bellum* has changed into a *jus contra bellum*, except in cases of individual and collective self-defense, Security Council enforcement measures, and arguably, to enforce peoples' right to self-determination."⁹¹ The efforts by the international community to prohibit and discourage armed conflicts have not yielded the desired result.

Governments are very often disposed to accept instruments that are formally of a non-binding character, and in situations of a non-international armed conflict, do not confer an international legal right on the opposition.⁹² According to Baxter, "[t]he first line of defense against international humanitarian law is to deny that it applies at all."⁹³

The war experience of the Igbo in Biafra and subsequent

91. Bouvier, *supra* note 90; see also U.N. CHARTER, *supra* note 1, art. 2(4) & chap. VII. The legitimacy of the use of force to enforce the right of self-determination as provided for in the U.N. Human Rights Covenants, has acquired recognition in international law. As Skubiszewski observed "[I]n the relations between the government and the governed the principle of self-determination and human rights and fundamental freedoms can be vindicated through resort to physical force conducted by the latter against the former. . . ." K. Skubiszewski, *Use of Force by States. Collective Security. Law of War and Neutrality*, in *MANUAL OF PUBLIC INTERNATIONAL LAW* 739, 771 (Max Sorensen ed., 1968); see also Han-Peter Gasser, *International Humanitarian Law and the Protection of War Victims*, Nov. 1, 1998, available at <http://www.icrc.org/icrceng.nsf/5cacfd48ca698b641256242003b3295/ac0308be0f6b8217412561e300360910?OpenDocument>; Yves Sandoz, *The International Committee of the Red Cross As Guardian of International Humanitarian Law*, Mar. 1, 1998, available at <http://www.icrc.org/icrceng.nsf/5cacfd48ca698b641256242003b3295/2dbd0938774a14f9412566170029ccb0?OpenDocument&HighLight=2,Sandoz,Guardian>.

92. THEODOR MERON, *HUMAN RIGHTS IN INTERNAL STRIFE: THEIR INTERNATIONAL PROTECTION* 152 (1987).

93. Baxter, *Some Existing Problems of Humanitarian Law, The Concept of International Armed Conflict: Further Outlook*, Proceedings of the International Symposium on Humanitarian Law (Brussels, 1974) (on file with author).

marginalization may qualify as crimes against humanity.⁹⁴ Fur-

94. Rome Statute of the International Criminal Court, U.N. Doc. A/CONF.183/9 (1998). Article 7 of the Rome Statute, defines a crime against humanity as:

1. For the purpose of this Statute, "crime against humanity" means any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack:
 - (a) Murder;
 - (b) Extermination;
 - (c) Enslavement;
 - (d) Deportation or forcible transfer of population;
Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law;
 - (e) Torture;
 - (f) Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity;
 - (g) Persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender as defined in paragraph 3, or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph or any crime within the jurisdiction of the Court;
 - (h) Enforced disappearance of persons;
 - (i) The crime of apartheid;
 - (j) Other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health.
2. For the purpose of paragraph 1:
 - (a) "Attack directed against any civilian population" means a course of conduct involving the multiple commission of acts referred to in paragraph 1 against any civilian population, pursuant to or in furtherance of a State or organizational policy to commit such attack;
 - (b) "Extermination" includes the intentional infliction of conditions of life, *inter alia* the deprivation of access to food and medicine, calculated to bring about the destruction of part of a population;
 - (c) "Enslavement" means the exercise of any or all of the powers attaching to the right of ownership over a person and includes the exercise of such power in the course of trafficking in persons, in particular women and children;
 - (d) "Deportation or forcible transfer of population" means forced displacement of the persons concerned by expulsion or other coercive acts from the area in which they are lawfully present, without grounds permitted under international law;
 - (e) "Torture" means the intentional infliction of severe pain or suffering, whether physical or mental, upon a person in the custody or under the control of the accused; except that torture shall not include pain or suffering arising only from, inherent in or incidental to, lawful sanctions;

thermore, the Geneva Conventions of 1949,⁹⁵ to which Nigeria is a party, in its Additional Protocol relating to the protection of victims of non-international armed conflicts, provides:

All persons who do not take a direct part or who have ceased to take part in hostilities, whether or not their liberty has been restricted, are entitled to respect for their person, honor and convictions and religious practices. They shall in all circumstances be treated humanely, without any adverse distinction.⁹⁶

The provisions⁹⁷ went further to prohibit collective punishment,⁹⁸ outrages upon personal dignity,⁹⁹ humiliating and degrading treatment,¹⁰⁰ and threats to commit any of the foregoing acts.¹⁰¹

As already noted, the government of Nigeria was guilty of all

-
- (f) "Forced pregnancy" means the unlawful confinement of a woman forcibly made pregnant, with the intent of affecting the ethnic composition of any population or carrying out other grave violations of international law. This definition shall not in any way be interpreted as affecting national laws relating to pregnancy;
 - (g) "Persecution" means the intentional and severe deprivation of fundamental rights contrary to international law by reason of the identity of the group or collectivity;
 - (h) "The crime of apartheid" means inhumane acts of a character similar to those referred to in paragraph 1, committed in the context of an institutionalized regime of systematic oppression and domination by one racial group over any other racial group or groups and committed with the intention of maintaining that regime;
 - (i) "Enforced disappearance of persons" means the arrest, detention or abduction of persons by, or with the authorization, support or acquiescence of, a State or a political organization, followed by a refusal to acknowledge that deprivation of freedom or to give information on the fate or whereabouts of those persons, with the intention of removing them from the protection of the law for a prolonged period of time.

Id. art. 7.

95. Geneva Convention Relative to the Treatment of Prisoners of War, Aug. 12, 1949, T.I.A.S. 3365, 75 U.N.T.S. 287.

96. Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), June 8, 1977, at Part II, art. 4(1), 16 I.L.M. 1442 (1977).

97. *Id.* art. 4(2).

98. *Id.* art. 4(2)(b).

99. *Id.* art. 4(2)(e).

100. *Id.*

101. *Id.* art. 4(2)(h).

the above acts of inhumanity and genocide during the civil war. Although the war ended over thirty-one years ago, the no "victor, no vanquished" policy announced by the government, as well as the promise of rehabilitating the victims of such atrocities committed during the war are yet to be translated into practice. Instead, a design to further perpetuate the experience of the war years, this time in the form of marginalization, was put in place.

There are people in the present regime that played very key roles in the period prior to, during, and after the civil war. Aside from the incumbent President Obasanjo, whose roles have been mentioned before,¹⁰² there is also the current Minister of Defense, General T. Y. Danjuma (Rtd.). As the Commander in charge of the State House at Ibadan in July, 1966, he was instrumental in the arrest and assassination of Major-General J.T.U. Aguiyi-Ironsi, the Head of State together with his host, the Military Administrator of the region, while on an official visit to the Western region. True to their words, the Nigerian government utilized all available "weapons" of mass destruction, including "hunger," through land, air, and sea blockades.¹⁰³

The present regime is in a position to find a lasting solution to most of Nigeria's political problems because of President Olusegun Obasanjo's first hand knowledge of the causes of the

102. See *supra* note 74 and accompanying text.

103. This violates art. 18(2) of the Additional Protocol (Protocol II), *supra* note 96, even though the act preceded this provision. But the circumstance in question had been regulated elsewhere, for example, in articles 5 and 30 of the UDHR, *supra* note 1. Furthermore, the threat and the execution thereof are tantamount to genocide. In defining genocide, there are three essential elements, namely: (i) an identifiable national, ethnical, racial, or religious group; (ii) the intent to destroy such a group in whole or in part (*mens rea*); and (iii) the commission of any of the listed acts in conjunction with the identifiable group (*actus reus*). Genocide requires that acts be perpetrated against a group with an aggravated criminal intent, namely, that of destroying the group in whole or in part. The degree to which the group was destroyed in whole or in part is not necessary to conclude that genocide has occurred. That one of the acts enumerated in the definition was perpetrated with a specific intent suffices. Short of being a civil war tribunal, the present effort by the President Obasanjo led-government, is commendable, if as was reported, it covers the period from 1966-1970 and the post-war period 1971-1998. Regrettably though, it does not seem that adequate responses are forthcoming from the most adversely affected by the war. It would have been proper to set up a special Commission to investigate the atrocities committed during the war years and effort made to, at least, reconcile the nation. The current Justice Chukwudifu Oputa led-Human Rights Violation Review Committee is not adequate considering its basis, scope, and time factor, to be able to uncover all the misdeed of the war era. It is even doubtful if it will be able, under the prevailing circumstances, to properly investigate the violations of the post-civil war dictatorships in Nigeria.

problems in the first place. There is need for a total reconciliation and the adoption of a national politics of *inclusion* and demarginalization of the marginalized ethnic groups.

Unfortunately, the refusal of the past military rulers of Nigeria to appear before the Human Rights Violations Review Committee ("HRVRC") to give account of their "stewardship" is not enhancing any attempt at reconciling the nation. If the international community had met its obligations to Nigeria, the recalcitrant ex-dictators would have been taken to the International Court of Justice at The Hague, just the way Slobodan Milosovic is a guest there. Perhaps, and more appropriately, if Biafra had attracted enough sympathy from the world community, the atrocities of that era would have been adequate to talk of in terms of a war crime tribunal.¹⁰⁴

In a body numbing, essay, Dele Sobowale noted:

[I]n 1967 and even now, Igbos have got a raw deal from the Nigerian State. Every MASSOB member or sympathizer, every cry for Igbo presidency re-echoes the experience of the civil war and the resentment against those who got away with genocide. Deep in their hearts, Igbo people yearn for another Ojukwu to rise up and say "never again." For non-Igbo, Ojukwu is one commander I would gladly have followed to war because his cause was just.¹⁰⁵

Indeed, for Ndigbo, it was a *jus ad bellum*. Regardless of the present provocation, caution is still the best option. As Elsie Onubogu, succinctly observed, "[t]he dead weight of our past must be lifted. True healing, genuine conciliation, forgiveness, will assist us to respect our individualism, diversity and human dignity."¹⁰⁶

104. See Sonja Boelaert-Suominen, *The International Criminal Tribunal for the former Yugoslavia and the Kosovo Conflict*, INT'L REV. OF THE RED CROSS, no. 837, at 217-52 (Mar. 31 2000), available at www.icrc.org/icrceng.nsf. The disintegration of the former Yugoslavia began when Slovenia and Croatia proclaimed their independence on June 25, 1991. See also James A. Burger, *International Humanitarian Law and the Kosovo Crises: Lessons Learned or to be Learned*, available at www.icrc.org/icrceng.nsf. Unlike the international military tribunals of Nuremberg and Tokyo, which were established after the defeat and surrender of the Axis countries, the International Criminal Tribunal for the former Yugoslavia ("ICTY") was set up in 1993, at a time when the conflict was still ongoing.

105. Dele Sobowale, *Emeka Ojukwu-Eze Ndigbo*, VANGUARD NEWSPAPER, Apr. 15, 2001, cited by Okechukwu E. Asia, *Dim [Chief] Chukwuemeka Odimegwu (sic) Ojukwu: The Real Soldier and Eze Igbo Gburu Gburu*, NIGERIAWORLD, July 12, 2001.

106. Elsie Onubogu, *The Path to Nation Building: An Agenda for Peace (Path II)*,

VII. RESISTANCE TO VIOLATION OF HUMAN RIGHTS AND DOMESTIC JURISDICTION CLAUSE

A. Resistance

The desire of every normal person is to want, not merely to exist within a given State, but to continue to develop economically, socially, culturally, and politically. This can occur only through the improvement of the quality of the individual life, through recognition of his fundamental human rights and ideals. The consequences for a nation that dwarfs its citizenry through rights violations are often quite enormous. Hence, for the citizens to forestall such violations by forms of resistance is good for the growth of the nation.

Ideally, government operates as a trustee of the people, hence the duty upon it in ensuring peace, security, and justice. Consequently, to dispense injustice or the application of coercion against one ethnic group in order to prevent or weaken its capacity to oppose authority and its policies constitute a fundamental breach by government of its key functions and is nothing short of a brute and inexcusable violation of human rights.

In the context of this study, it is obvious from the earlier analysis that the Igbo have good cause to resist the current structure of marginalization being perpetuated against them by the federal government of Nigeria since the end of the civil war, thirty-one years ago. It does not need to be an armed resistance, which would amount to a treasonable act and may attract severe reaction from the government and international community. The right to resist violations may vary depending on the rights violated in a given situation. There are certain mutual claims that cannot be ignored without detriment to the well being of the individual or the very community of which he is a member. Although human rights violations in Nigeria often occur as aberrational violations, not necessarily systematic ones, sometimes the actions of overzealous government officials result in grave human rights abuses.¹⁰⁷

However, international law trusts that States, which are in

NIGERIAWORLD, June 22, 2001 (forwarded by M. O. Ene), available at http://nigeriaworld.com/feature/article/nation_building2.html.

107. See Adegbenro, Attorney General of the Republic of Nigeria, W. Nig. L. Rep. 169 (1962); Lekanmi and Kikelomo Ola v. Attorney-General of Western Nigeria, Ife U.L. Rep. 201 (1971).

general vested with the duty to implement human rights, will devise ways to cope with violations, which may not rouse a right to resistance.¹⁰⁸ The ICCPR and many other human rights instruments¹⁰⁹ reserve States' right to derogate from obligations to protect certain rights in the event of an armed conflict or public emergency. The ambiguity and vagueness of these terms enables States to perpetrate violations of rights and not be held accountable.¹¹⁰ States also possess the necessary instruments to weaken opposition. Those who utilize the right of resistance are often likely to suffer hardships, which international pressure sometimes proves insufficient to ameliorate.

B. *Domestic Jurisdiction Clauses*

International human rights norms are dictated by an assembly of States, while the domestic application of those norms fall within the exclusive prerogative of domestic law. International conventions are not directly enforceable in national courts of most countries whose legal systems are based upon Common law, unless their provisions have been incorporated by legislation into domestic law. There is a growing tendency for national courts to have regard to these international norms for the purpose of deciding cases where the domestic law is uncertain or incomplete. However, where national law is clear but inconsistent with the international obligation of the State concerned, in Common law nations, the national courts are obliged to give effect to national law.¹¹¹

The principle of domestic jurisdiction presupposes that there are "reserve domains" of a State in which its jurisdiction is exclusive. The U.N. Charter recognizes the principle of non-intervention in the domestic affairs of Member States. It recognizes that there are certain matters that are essentially within the

108. See E.S.C. Res. 1503, U.N. ESCOR, chap XLVII, 1693rd mtg. at 8 (1970).

109. ICCPR, *supra* note 1, art. 4; American Convention on Human Rights, O.A.S. Official Records, OEA/Ser. K/XVI/1.1, Doc. 65, Rev. 1, Corr. 2 (1970), *reprinted in* 9 I.L.M. 673; European Convention for the Protection of Human Rights and Fundamental Freedoms, art. 15, Nov. 22, 1984, Europ. No. 117, *reprinted in* 24 I.L.M. 435 (1985); Banjul Charter, *supra* note 4, art. 11.

110. For instance, Nigeria was not at war when the most draconian decrees were promulgated.

111. In such a situation, the court should draw the inconsistency to the attention of the appropriate authorities since the supremacy of national law in no way mitigates a breach of an international legal obligation.

domestic jurisdiction of a State and in which other States should not intervene.¹¹² Similarly, the Charter of the OAU barred Member States of the organization from interfering in the internal affairs of other Member States.¹¹³

These provisions have been grossly misinterpreted, depending on the issue at stake. It has become fashionable for States to intervene in the reserve domains of other nations when special national interests need to be protected. This is often a potent weapon for States such as the great powers, like the United States and its NATO allies.

The principle of domestic jurisdiction has been effectively upheld by the international community in situations that relate to the plight of African countries. This principle was observed strictly during the Biafra crisis, and during the dictatorships of Nigeria's past military rulers, except in isolated cases when trade and other economic embargoes were enforced against the country. Consequently, domestic jurisdiction has been abused by many nations at various times and for various reasons. Therefore, the notion that human rights have become the affairs of the international community remains a mere symbolic gesture devoid of any enforceability, and as a result, forewarns the victims of human rights abuses, who may have a desire to resist, of the enormous power of the State in respect of domestic jurisdiction.

VIII. THE "PRIMUS INTER PARES" SYNDROME

Igbo society is acephalous. In other words, it is a "chief-less society." This explains the reason why every Igboman regards himself as being superior to the next person. Consequently, followers are lacking among the Igbo.¹¹⁴ Self-styled leaders abound

112. U.N. CHARTER art. 2(7).

113. ORGANIZATION OF AFRICAN UNITY CHARTER, art. 3(2), *reprinted in* BASIC DOCUMENTS OF AFRICAN REGIONAL ORGANIZATIONS 62 (Louis B. Sohn ed., 1971); *see, e.g.*, CHARTER OF THE ORGANIZATION OF AMERICAN STATES, T.I.A.S. No. 2361, chap. 4, art 19. However, it was held in the *Tunisia-Morocco Nationality* case that "[I]f a matter claimed to fall within the domestic jurisdiction is rooted in a matter of international concern, it ceases to be a matter of domestic jurisdiction *protanto* . . ." 1923 P.C.I.J. No. 4. In other words, a matter is removed from domestic jurisdiction if it derives from treaty obligation or is a *jus cogens* rule.

114. This is often expressed thus: "Igbo enwe eze" meaning that the Igbo have no king. If one is able to make some contribution toward the building of a community school, extending electricity or pipe-borne water etc. in his community, he is honored

in Igboland. All it takes is some cash or property and some social status in the community to be able to claim leadership. Wealth matters so much, that every Igboman places it first and foremost before every other thing.

The situation the Igbo find themselves in the present day Nigeria, is partly due to their own lack of unity, on the one hand, and, on the other hand, their defeat in the Nigeria-Biafra internal armed conflict of 1967-1970.

According to Senator Wabara:

[T]he Igboman has not been able to respect an Igbo leader because of our economic independence. Any Igboman who runs into one Naira or two assumes he is the leader from any part of the world he operates. Without consultations with his home base, he starts occupying positions and issuing statements that are at variance with the realities of the Igbo situation.¹¹⁵

As a group, the Igbo have failed as spectacularly as they have succeeded as individuals. Concepts of responsibility and service to the people are not tenable among the Igbo. Sanctions against betrayers of the common cause and punishment against corruption and mismanagement are not the Igbo way of life.¹¹⁶ The resultant lack of unity and common purpose now prevailing among the Igbo has encouraged others, especially those in positions of authority in the country, to dismiss them as a bunch of unserious folks.

Among other major ethnic groups in Nigeria, one or at the most two tribal associations are enough, and leadership selection should follow as a matter of course. Presently however, there are over ten cultural/political associations fighting the so-called marginalization of the Igbo. The result is that each group designs its own agenda and decides its *modus operandi*, and more often than not, these various fronts clash mid-way, even before reaching the central authority. The rest of Nigeria knows this, and it has worked tremendously against the Igbo and their cry for redress or de-marginalization in Nigeria. Because these various associations represent their selfish interests, it is often diffi-

with a chieftaincy title, and that serves as a launching pad to arrogate leadership status for himself.

115. Adolphus Wabara, Interview, *GUARDIAN NEWSPAPER*, Aug. 18, 1999.

116. Paul Nwawikwu, *The Truth About Igbo Maginalisation*, *GUARDIAN NEWSPAPER*, Editorial, Oct. 27, 1999.

cult for them to meet and adopt a common strategy, without each group wanting to dominate the gathering.

In one of such meetings, Eziuche Ubani reported that "before the summit began . . . there was a problem about what to do with other Igbo leaders like Commodore Ebitu Ukiwe, former Chief of General-Staff, Dr. Chuba Okadigbo, Dr. Sam Mbakwe, Chief Arthur Nzeribe, Chief Emmanuel Iwuanyanwu, and Chief C. C. Onoh."¹¹⁷

Problems began when Chief Onoh could not comprehend why he and others should be left on the floor. He reacted by taking his chair and mounting it on the "high table." Dr. J. O. J. Okezie, a former federal commissioner for agriculture, was angry that the initiators of the meeting did not respect his status by asking him to sit on the floor with the ordinary people. He was angry to the extent of picking up a microphone and throwing it on the "high table." Dr. Basil Nnanna Ukegbu, was roused when Chief Odumegwu Ojukwu, in his speech, tended to demonstrate that, the Igbo, having recovered from the psychological inferiority of defeat in the civil war, said that "Igbos will no longer beg, but take power." To Dr. Ukegbu, it was "this type of boast that caused the war"¹¹⁸

Admittedly, these are highly respected men, whose achievements in life and contributions to the welfare of the Igbo and beyond cannot be overemphasized. Having said that, it is equally important to admit that, because society is dynamic, the rules of the game called politics very often call for reappraisal. While every achiever in society is entitled to claim the fruits of his hard work and respect that is due to him, it is important that in circumstances as serious as the one the Igbo are confronted with, a common strategy is agreed upon to advance the cause of the group.

Leadership is the position, office, or term of a leader; it is the capacity to be a leader.¹¹⁹ A leader is therefore a person who leads others along an agreed path, a guide. A leader is not nec-

117. Eziuche Ubani, *When Igbo Leaders Meet*, SUNDAY NEWSPAPER (NIG.), Aug. 9, 1998, at 9. Despite the old intrigues and divisions that nearly marred the meeting, three important statements were issued in the end: (1) Federalism based on the six zones, (2) Restructuring of the armed forces etc., and (3) Citizenship rights.

118. *Id.*

119. AMERICAN HERITAGE DICTIONARY OF THE ENGLISH LANGUAGE 743 (3d ed. 1981).

essarily a “boss” in the ordinary sense of the word, because leadership, sometimes can be collegial, in which case, decisions are taken in unanimity. A leader should be able to carry the group along the well-defined path towards the achievement of the group’s objectives or target. A good leader must command respect from the members of the group, and it is often the way the group receives the leadership, that determines how seriously or otherwise outsiders will honor the group and its leadership. This is a point where the Igbo are different from the Yoruba and the Hausa/Fulani groups. For example, *Afenifere*, a pan-Yoruba cultural association, was headed by late Chief Adekunle Ajasin, until his death. Chief Abraham Adesanya succeeded him without any power tussle among the many leading Yoruba great men, equally, of gigantic accomplishments. It is the same smooth succession and unity of purpose that makes the *Arewa Consultative Forum*, the powerful Hausa/Fulani movement that it is in Nigeria. This is despite the fact that all the Generals and Presidents from that region who had ruled the country belong to the Forum.

Some authorities note that the nature of Igbo autonomy may explain the relative lack of development of the executive arm of government.¹²⁰ Such a state of affairs, that thrived in the days of old, do not conform to the present. If the notion “*Igbo enwe eze*” dramatized the principle of self-determination and explained the absence of large centralized states and empires in pre-colonial Igboland, that notion no longer fits into the globalization era of this day. Things are changing, and very fast too.

Igbo are blessed with men and women of substance, of great accomplishment both at home and abroad. All that is lacking among the Igbo is “unity of purpose” or “one-voice culture.” A situation where everyone claims superiority over each other (*primus inter pares*) can never enhance group consciousness and collective responsibility.

The Igbo need an influential personality with nationwide reach. They are men like Dr. Alex Ekwueme, Chief Odumegwu

120. See, e.g., ADIELE AFIGBO: *ROPES OF SANDS—STUDIES IN IGBO HISTORY AND CULTURE* (1981); ELIZABETH ISICHEI: *A HISTORY OF THE IGBO PEOPLE* (1976); see also R.N. HENDERSON, *THE KING IN EVERYMAN* 20-23 (1972); *STUDIES IN AFRICAN SOCIAL ANTHROPOLOGY* (Mayer Fortes and S. Paterson eds., 1975); Robin Horton, *Stateless Societies In the History of West Africa*, in *1 A HISTORY OF WEST AFRICA* (J.F. Ade-Ajayi & M. Crowder eds., 1971).

Ojukwu, and Chief Sam Mbakwe, among whom the Igbo can find good leadership. Chief Arthur Nzeribe has the flexibility of character and can reach out to the North. However, his recent skirmishes with the Senate may have led to some disaffection amongst the Igbo. But if entrusted with a responsibility, Chief Nzeribe may turn out to speak and fight for the Igbo "cause," using his national and international connections to the advantage of the group. In this era of globalization, leadership demands a lot more than chains of traditional chieftaincy titles, and/or a re-echoing of century old accomplishments.

Someone in whom the Igbo entrust leadership may not necessarily be the eventual presidential candidate. It is important to stress this point. At this stage of the Igbo struggle, the objective should not be the presidency, but the grassroots mobilization of the Igbo. Hopefully, such a candidate will emerge in the course of events.

IX. PANACEA

The plight of the Igbo in Nigeria concerns their human dignity as well as human rights. The dignity of the Igboman and the entire Ndigbo is no less than those of the Yugoslavs, Kosovos, Rwandans, Bosnians, Jews, and others whose plights have attracted considerable international sympathy and action. Self-determination is an element in human dignity, and it is a human right. Evidently, the Igbo have grossly misplaced their priorities in claiming their inheritance, which by nature is free, inalienable, and non-negotiable. The preciousness and dignity of the individual person is a central humanist value.¹²¹

121. See Emmanuel Orji, *The Abuse of State Security Powers*, HUM. RTS. CLUB. NEWS-LETTER (Legal Research and Resource Development Center, Lagos, Nigeria), Vol. 1, no. 14, Oct.-Dec. 1998. A conference entitled "First National Multi-disciplinary African Workshop on Human Rights" was sponsored by Rights and Humanity (London, UK) and co-hosted with the Law Faculty of the University of Calabar, Nigeria, from November 10-13, 1987. Policy level papers were presented, including: Dr. J.J. White (*Fundamental Human Rights In Nigeria: The Foundation*); Professor. U.O. Umozurike (*The Protection of Human Rights in Nigeria in the Context of International Law and the Banjul Charter*); Dr. N.S.S. Iwe (*The Dignity of Man as the Foundation of Human Rights*); Dr. F.E. Akpan (*The Significance of Legal Protection of Human Rights in Present Day International Law*); Dr. E. Ekeke and Dr. Julius Ihonvbere (*The African Economic Crisis—Militarism and Human Rights Violation*); Dr. I.R. Amadi (*Human Rights in Pre-colonial Igbo Land—A Historical Analysis*); Dr. Chibuzo Ogbuagu (*Maximum Employment for Human Rights*); Abba Gana Shettima (*Islam and the Education of Women—Human Rights Interpretation*); Joseph A. Anyanlola (*The Christian Foundation of Human Rights*); Emmanuel Orji, (*Development as a*

Based on the fore-going analysis, the panacea for the plight of the Igbo in the Nigerian nation State need to be identified and focused. To achieve this, the Igbo need to unite and speak with one voice. First, they should start by forgiving one another for their bad political skirmishes in the past. Dr. Alex Ekwueme has set this standard by declaring, "[I] have personally forgiven all who might have hurt me and I appeal to those who I might have offended to forgive me."¹²² This is imperative for a true reconciliation to begin at home amongst the Igbo before they can effectively claim it at the national level.

The recently concluded World Igbo Congress 2001 fell short of emphasizing the aspect of reconciliation among the Igbo prior to embarking on the gigantic projects it listed in its Communiqué. These projects and programs, no doubt require implementation, and for this to be done, someone must be saddled with the responsibility to oversee their execution. It is important, first and foremost, that the Igbo endeavor to resolve their age long problem of lack of leadership.

The Igbo lack bargaining power under the present structure in Nigeria. This can be reversed only if the Igbo can have an Igbo based political party. This will afford the Igbo an opportunity to return in the scheme of things. It should be noted that no party could win a presidential election without Igbo votes. If a strong political party is formed that has an Igbo base, things will change. It is overly simplistic for one to agree that MASSOB will achieve a political solution to the present plight of the Igbo, even in the long run.

It is important that while retaining their traditional sectional or community groupings, Igbo leaders should endeavor to come together under one umbrella for their common good, and in particular, for the less privileged who look up to them for better days ahead. This can be achieved only if everyone endeavor-

Right and the Right to Development as a Human Right), subsequently published as *Developed, Developing Countries and the Right to Development* by the Kurukshetra University Law Journal, India, 1988. I had the privilege and responsibility to have served as the Coordinating-Secretary for the Workshop, and received invaluable inputs from Mr. David Heaps, formerly of the Ford Foundation, as well as Mr. Boji Jordan, then exiled head of the Pan-Africanist Congress of Azania (South Africa) in Nigeria, among other human rights supporters.

122. Tony Edike, *Igbo Formed PDP says Ekwueme*, VANGUARD, Oct. 18, 1999 (quoting Dr. Alex Ekwueme).

ors to de-emphasize his or her natural claim to leadership, while maintaining his or her natural rights and human dignity.

CONCLUSION

In *Human, All Too Human*, the German philosopher and nationalist, Friederick Wilhelm Nietzsche wrote "A nation usually rejuvenates itself on the political sick bed and rediscovers its spirit, which it had gradually lost in seeking for and assertion of power."¹²³ Nigeria has been on the sick bed since its creation in 1914 by the British. Forty-one years of self-rule has not made much difference. How much longer will peace and unity elude Nigeria? How much more time will it take the men and women, the very few profound and active persons who epitomize the times, to heed the clarion call and cry by the majority of voices—the real "beneficiaries" of democracy—for an opportunity to discuss the terms of the continued corporate existence of Nigeria? Nigerians have offered thought provoking perspectives to perennial incidences of military interruption of democratization process, ethnic disturbances, religious riots, suppression of minority voices, and demands for social and economic justice, power equation, marginalization of some ethnic groups and the resultant human rights abuses, and abuse of power by government and its agencies.

All these and many more worrisome issues in the polity are not natural. They are man made and can be avoided. Why, for instance, are the British colonizers still blamed for the woes of Nigeria, when the opportunity is at the disposal of Nigerians; when Nigerians can find a real sovereignty and unity *à la* Nigeria? Leaders, past and present, have spoken about unity and progress, but none had been able to translate the idea into action. Under a democratic dispensation, the government is expected to encourage dialogue to the extent that it is necessary in the nation's interest.

This Article shall conclude by quoting Alhaji Bukar Usman. In his book *Voices In A Choir: Issues in Democratization And National Stability In Nigeria*, the author observed:

A choir has an alto, tenor, treble and bass and the choirmaster must mould these various voices into a coherent choir to

123. FRIEDERICK WILHEIM NIETZSCHE, *HUMAN, ALL TOO HUMAN* 169 (trans. R.J. Hollingdale, 1986) (1878).

produce a harmonious melody. The same can be said of a nation such as ours with more than 250 ethnic groups and languages and dialects, various religious and cultural persuasions, different climates, and disparities in educational level and wealth distribution. In short Nigeria is a country of heterogeneity rather than homogeneity and where a country lacks homogeneity except of course the homogeneity of our common humanity, what you must then strive is unity in diversity. Unity in diversity is like the many colors of a rainbow. A rainbow is a kaleidoscope of colors which present, in spite of itself, exemplary beauty and visual harmony . . . building our kind of nation is a difficult, on-going and everlasting challenge for which the gift of compromise, giving and taking, minimizing the weakness of the parts and maximizing the strengths of the whole are necessary pillars for durable architecture.¹²⁴

124. Ray Ekpu, *Voices in a Choir: Issues in Democracy and National Stability in Nigeria*, THISDAY SUNDAY NEWSPAPER, Book Review, June 13, 1999 (on file with author). At a recent public hearing of petitions brought before the Human Rights Violations Commission, by the Arewa Consultative Forum ("ACF"), Ohaneze Ndigbo, Afenifere, Joint Action Committee on the Middle Belt ("JACOMB"), and Ogbokor Ikwere group, the Commission's chairman, retired Justice Chukwudifu Oputa lamented that:

[E]very ethnic group says they are marginalized: where are we going from there? . . . [T]he greatest problem we have in this country is ethnicity. Ethnicity is not a problem in itself, what makes ethnicity a problem is the psyche of those who hold strongly unto their ethnic identity. Ethnicity came from the Europeans with their principle of divide and rule. Are we going to continue this way?

Ethnicity, Bane of our Society, U.S.-AFRICAN VOICE, Nov. 2001, at 9. In what sounded as a panacea, the erudite retired Justice of the Supreme Court of Nigeria counseled: "The first thing for us to do is a mental re-orientation, we are still thinking as colonialists affected us to think. If we can make up our mind to correct ourselves as Nigerians, then things will move well for us." *Id.* However, the Chairman was not done without apportioning blame when he asserted:

The elites are those who led this country astray. When they want political power they say all they should not say; they don't mean it, but the ordinary people who hear these things take them to heart and when problems start from there, the elites run away and the poor man suffers. . . . Government since 1960 has not been for the people, it has been for the elites.

Id.