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Federalism, The Consociational State, and Ethnic Conflict in Nigeria

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From a theoretical perspective which views constitutions and constitutional arrangements as forms of political technology, this article argues that Nigerian federalism is based on a theory of the rights of ethnic groups to autonomous coexistence within the nation. This theory also provided a basis for the development and utilization of consociational conflict-regulating mechanisms, some of which gave rise to affirmative action policies to consolidate elite domination by ethnically-based fractions of the country's political class. But the effectiveness of federalism and consociationalism as conflict regulating mechanisms has been limited. This is due partly to the character of the competition to control the Nigerian state, which impelled political parties in the First and Second Republics to cross-cut ethnic cleavages. It is also due partly to a crude Machiavellian equation of political conflict in civil society with a war situation in which rules can be disregarded and in which one's political adversaries must be annihilated—a conception of the political marketplace at variance with the emphasis of federalism and consociationalism on compromise and checks on political excesses.

Constitutions and the institutional arrangements which derive from them are typically forms of political technology designed to regulate political conflict and determine the patterns and location of political dominance within the state. The design of constitutions is also an experiment in which the designers debate competing options, make reasoned choices, and elaborate the expectations which guide their choices.

This experimental and experiential view presupposes that the relationship between constitutions and political processes is inherently problematic. This is partly because the experiment must necessarily be based on incomplete information. It is also partly due to the ambiguities and obscurities inherent in the use of language, the medium in which constitutions are written, as a guide to political action. Nevertheless, the notion of an experiment suggests that constitutions are informed by certain guidelines, which can also be used to assess the experiment.

This view of constitutions as experiments in collective action to structure

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patterns of dominance and authority leads to the argument of this article. Since its inception, Nigerian federalism has always reflected attempts by the country's emergent political class to regulate political conflict along ethnic lines by disaggregating constitutional authority between two levels of government. Over the years, this disaggregation has become increasingly consociational in nature. It has also required the formulation of policies, similar to what might be described as affirmative action-type policies, to assuage ethnic fears at critical periods in the country's political and constitutional history.

The argument is also that the adoption of consociational arrangements is a strategic device to broaden the ethnic base of the emergent political class in order to resolve contradictions arising from existing patterns of domination and authority. In other words, the Nigerian political class, drawing lessons from the country's federal experiments, has adopted modes and policies of conflict regulation which are more and more consociational in nature in order to deal with these contradictions. Each new experiment on the substantive norms and procedural mechanisms of governance is based on an elite consensus, on rational and pragmatic calculations of mutual benefit and advantage by ethnically based fractions of the political class. By ostensibly acting to protect and promote ethnic interest, by "politicizing ethnicity," the political class attenuates or dampens cross-cutting cleavages.

This, however, has created an enduring problem for Nigerian federalism. The ethnicization of politics for purposes of constitutional experimentation has turned out to be a powerful obstacle to the working of Nigerian federalism. Because Nigerian federalism is based on ethnic and not geographical diversities, it has tended to exacerbate centrifugal forces in the country. Pierre van den Berghe's observation that "ethnicity is such a powerful sentiment that, once mobilized, it cannot always be controlled"¹ is highly pertinent to the Nigerian situation.

ETHNICITY, FEDERALISM AND CONSOCIATIONALISM IN NIGERIA

Ethnic heterogeneity is a pervasive feature of the contemporary world. The problem it poses, especially in deeply divided or plural societies, is one of reconciling ethnic diversity with overarching loyalty to the state. This is the more problematic because the state is not a neutral force in mediating political conflict. It can be captured and used to further the interests of the leadership of an ethnic group or combination of such groups. A plural society is thus one in which politics is ethnicized, in which political competition is overtly drawn along ethnic lines. Examples of such societies are Belgium, Ceylon, India, Lebanon, The Netherlands, Nigeria and Yugoslavia, among others.

Ethnicity, as an aspect of political processes, should be viewed dynamically.

¹Pierre L. van den Berghe, *The Phenomenon* (New York: Elsevier North Holland, 1981), p. 191.

It is within such a context that its salience in Nigerian federalism should be situated. The concept refers to identity relationships which are based on a common language, religion, culture, caste, or race—what are sometimes referred to as primordial attachments. Ethnicity *per se* need not generate conflict; but once it is situated in a particular type of social or plural diversity, it assumes potential conflict significance.

This is partly because, with scarcity being a major constraint in politics, ethnicity becomes a crucial criterion for regulating political conflict and distributing public goods and bads in situations of plural diversity. In other words, the political salience of ethnicity is due to its being deployed for competitive purposes by political entrepreneurs. The mechanisms of deployment are various and can include political parties, bureaucracies, the military, trade unions, ethnic unions, and the like.

The ethnic configuration of Nigeria is illustrated in Table 1. It is with reference to this configuration that the development of Nigerian federalism as a dynamic process is best understood. That process has partly involved the creation of more states (in 1963, 1967, and 1976) in order to reduce political domination at the federal level by the Hausa-Fulani who constitute about 25 percent of the total population of Nigeria. But it has also partly involved the attempt by minority ethnic groups to challenge the hegemony of the three largest ethnic groups—the Hausa-Fulani, Yoruba, and Igbo—in the political, social, and economic life of the country, each of which, like some of the other ethnic groups, is also made up of a number of sub-ethnic groups.

Federalism as a system of concurrent regimes therefore developed in Nigeria in response to problems of governance created by this ethnic configuration. It is deliberately structured to provide the legal superstructure within which the various ethnic fractions of the political class seek access to state power, with a view to controlling or influencing its exercise. What this suggests is that the theoretical formulation of Nigerian federalism is based on a limited form of consociationalism.

Arend Lijphart has identified four elements of consociationalism: grand coalition, mutual veto, proportionality, and segmental autonomy.² But van den Berghe³ and Huntington⁴ have argued that consociationalism is a mask for consolidating elite domination. It generally depends on the manipulation of ethnicity for advancing the class interests of the various ethnic elites. This article will show the extent to which consociational elements have been reflected in Nigerian federalism in pursuit of elite interests.

Federalism and consociationalism are elite responses to contradictions in the structure of Nigeria's ethnic relations. As suggested above, policies dic-

²Arend Lijphart, *Democracy in Plural Societies: A Comparative Exploration* (New Haven: Yale University Press, 1977), pp. 25–44.

³van den Berghe, *The Ethnic Phenomenon*, p. 188.

⁴Samuel P. Huntington, "Reform and Stability in a Modernizing, Multi-Ethnic Society," *Politikon* 2 (December 1981): 14.

TABLE 1
Major Nigerian Ethnic Groups

| Ethnic Units | Estimated Population | Estimated Ethnic Percent |
|--------------------------|-----------------------------|---------------------------------|
| Hausa-Fulani | 15,370,000 | 29.0 |
| Yoruba | 10,800,200 | 20.0 |
| Igbo | 9,180,000 | 17.0 |
| Tiv and Plateau Cluster | 4,860,000 | 9.0 |
| Ibibio and Semi-Bantu | 3,240,000 | 6.0 |
| Kanuri | 2,484,000 | 5.0 |
| Edo | 1,784,000 | 3.3 |
| Idoma-Igala-Igbirra | 1,404,000 | 2.6 |
| Ijaw | 1,083,000 | 2.0 |
| Bororo (Pastoral Fulani) | 957,000 | 1.5 |
| Nupe | 682,000 | 1.2 |

SOURCE: Abstracted from T.O. Odetola, *Military Politics in Nigeria: Economic Development and Political Stability* (New Brunswick: Transaction Books, 1978), pp. 165-168.

tated by these conflict regulatory mechanisms have increasingly assumed what might be described as affirmative action-type policies. These measures are intended to confer special benefits to individuals by virtue of their membership in ethnic groups. The special benefits involve redistributive measures, not necessarily compensatory ones, to favor ethnic groups, especially where such groups have been placed in a disadvantaged or less competitive position relative to other ethnic groups.

One can identify five categories of affirmative action measures. Three of the categories include measures designed to eliminate certain barriers, such as overtly discriminatory rules of an institution; hidden biases in access routes for some ethnic groups to institutions; and fundamental system biases against some ethnic groups, which are inherent in the basic institutional arrangements of the state. A fourth category includes measures which allow some ethnic groups access to institutions by admitting more of their members than would ordinarily have been admitted through competitive selection processes. A fifth category includes measures that provide proportional representation for ethnic groups.⁵

Countries that have adopted some or all of these measures are few, but include Belgium, Ceylon, India, Malaysia, Nigeria, Pakistan, the United States of America, and Yugoslavia. In the case of Nigeria, the measures adopted bear a striking similarity to the fourth and fifth categories enumerated above. Their increasingly gradual utilization in Nigeria as policy

⁵This paragraph is summarized from Fred M. Frohock, *Public Policy: Scope and Logic* (Englewood Cliffs: Prentice-Hall, 1979).

options to structure ethnic conflict will be illustrated below.

CONSOCIATIONALISM AND AFFIRMATIVE ACTION IN NIGERIA

To what extent has Nigeria adopted consociational elements? How are these elements related to affirmative action? These questions are best answered by dividing Nigeria's political history into four periods: 1 October 1960 to 15 January 1966; 15 January 1966 to 30 September 1979; 1 October 1979 to 30 December 1983; and 31 December 1983 to the present.

1 October 1960–15 January 1966 (The First Republic)

During this period, only two consociational elements were explicitly incorporated into the 1960 Independence Constitution and the 1963 Republican Constitution: the mutual veto and segmental autonomy. A weak mutual veto provided for an upper chamber, the Senate at the center, made up of twelve senators nominated from each of the regions, four from the Federal Territory of Lagos and four others nominated by the president on the advice of the prime minister. This veto was weak because the Senate was a "dignified" legislative chamber, which could not delay legislation passed in the House of Representatives for more than six months.

The mutual veto provision was also weakened by a number of important, doubly entrenched constitutional provisions which required less than the unanimity rule implied in the mutual veto in order to give them effect. For example, the 1960 Constitution provided for the creation of a new region out of an existing one or the alteration of boundaries between regions by means of a majority vote procedure in which at least two of the existing three regions and the federal government had to support the move. These provisions left open the possibility of some regions joining the federal government to gang up against a third region.

This is what happened in March 1962 when the federal legislature passed, by the required two-thirds majority in each of the two houses, a bill for the creation of a Mid-West Region out of the existing Western Region. The bill was then submitted for the approval of the regional legislatures. The Western regional legislature rejected the bill, but the Northern and Eastern regional legislatures passed it. The Mid-West Region bill establishing the new region was subsequently enacted anyway.⁶

The possibility of some regions ganging up against others suggests the need to relate the mutual veto provision to the issue of geographical and population size, especially where the mutual veto is weak or compromised by doubly entrenched provisions which do not require unanimity. Where one ethnic group or a coalition of ethnic groups is numerically larger than the others, the result is likely to be that the larger ethnic group or coalition of ethnic

⁶B.O. Nwabueze, *A Constitutional History of Nigeria* (London: C. Hurst, 1982), p. 136.

groups will adopt an uncompromising attitude toward the other ethnic groups. A major issue in Nigerian federalism during this period was a lopsidedness which made the Northern Region bigger in both geographical size and population size than the combination of the other two and later three regions. It was this fact which enabled the Northern Peoples Congress (NPC), the hegemonic party in the North, to dictate the terms of coalition with either of the two major Southern parties, the National Council of Nigeria and the Cameroons (NCNC) and the Action Group (AG), and to play them against each other.⁷

The distribution of legislative powers during this period contained an exclusive federal list and a concurrent list, with the residue left to the regions. The distribution underlined the strength of the desire for segmental autonomy. However, there were constitutional provisions which presumed federal preeminence. For example, the 1960 and 1963 constitutions contained emergency provisions enabling the center to intervene in the conduct of regional governments. The federal government exercised these emergency provisions in May 1962 when it declared a state of emergency in the Western Region and appointed a federal administrator to exercise executive and legislative authority in the region.

The emergency provisions, especially their application in May 1962, partly negated the consociational element of segmental autonomy. But segmental autonomy in consociational theory is not meant to be absolute autonomy. The conferment of such powers on the federal government was intended to deal with abnormal situations, although it might sometimes be problematic to reach agreement on the existence of such situations.

The issue of segmental autonomy during this period was problematic in another respect. This is because the three (later four) regions were not ethnically homogeneous. Each, especially of the original three regions, contained significant ethnic minorities which, even before independence, staked claims for their own separate regions. This heterogeneous mosaic was complicated by two factors. First, Nigerian ethnic groups are not necessarily coterminous with state boundaries. Second, there are also significant sub-ethnic divisions within each of the numerically as well as sociologically superior ethnic groups in each of the four regions (Hausa-Fulani, Yoruba, Igbo, or Edo) (see Table 2).

The issue of granting segmental autonomy to more ethnic groups was vigorously debated in the penultimate years before independence, especially since minority ethnic groups feared that they would be perpetually dominated by the numerically and sociologically superior ones. The solution adopted in 1960 to protect these minority ethnic groups was twofold.

First, a list of fundamental rights was included in the Constitution to

⁷For detailed discussion of the dynamics of coalition formation during this period, see Billy J. Dudley, *Instability and Political Order: Politics and Crisis in Nigeria* (Ibadan: Ibadan University Press, 1973), Chap. 4; and J.P. Mackintosh, *Nigerian Government and Politics: Prelude to the Revolution* (Evanston: Northwestern University Press, 1966), Parts 3 and 4.

TABLE 2
Sub-Ethnic Divisions of Three Major Ethnic Groups

| Hausau-Fulani | Yoruba | Igbo |
|---------------|---------------|------------------|
| 1. Daurawa | 1. Ahori | 1. Abadja |
| 2. Gobir | 2. Egba-Awori | 2. Abaja |
| 3. Kanawa | 3. Ekiti | 3. Abam |
| 4. Katsenawa | 4. Eko | 4. Alensaw |
| 5. Kebbawa | 5. Ijebu | 5. Aro |
| 6. Zamfara | 6. Ijesha | 6. Awhawfia |
| 7. Zazzagawa | 7. Jekri | 7. Awhawzara |
| 8. Auyokawa | 8. Oyo | 8. Awtanza |
| 9. Fulani | 9. Ife | 9. Edda |
| 10. Jaba | 10. Bune | 10. Ekkpahia |
| 11. Kuturmi | 11. Ondo | 11. Etche |
| 12. Gungawa | 12. Akoko | 12. Eziamma |
| 13. Shangawa | | 13. Ezza |
| 14. Lopawa | | 14. Ihe |
| 15. Busawa | | 15. Ije |
| 16. Kagoro | | 16. Ika |
| 17. Janji | | 17. Ikwerrri |
| 18. Ninzo | | 18. Ikwo |
| 19. Kwatawa | | 19. Ishielu |
| 20. Kagoma | | 20. Isu |
| 21. Bugaje | | 21. Isu-Ochi |
| 22. Kambari | | 22. Ndokki |
| 23. Dakarkari | | 23. Ngbo |
| 24. Dukkawa | | 24. Ngwa |
| 25. Fakkawa | | 25. Nkalu |
| 26. Zabarma | | 26. Nkanu |
| 27. Waja | | 27. Okoba |
| 28. Bade | | 28. Onitsha-Awka |
| 29. Kudawa | | 29. Orata |
| | | 30. Oru |
| | | 31. Ubani |
| | | 32. Ututu |

SOURCE: Abstracted from Odetola, *Military Politics in Nigeria*, pp. 165-166.

guarantee and protect the civil, political, and sociocultural rights of minority ethnic groups within the regions. Second, a number of institutional and constitutional arrangements were designed to protect ethnic minorities. For example, section 27 of the 1960 Constitution and section 28 of the 1963 Constitution sought to ensure fair representation of ethnic minorities in the public services of the regions by protecting their members from disabilities or discrimination due to "the practical application of any law in force in Nigeria or any executive or administrative action of the Government of the Federation or the Government of a Region . . . to which citizens of Nigeria of other communities . . . are not made subject."

Although the demands of the minority ethnic groups did not result in their being given their own states, policy measures which resembled affirmative action were pursued along with constitutional provisions against discrimination. For example, compensatory measures, such as the creation of the Niger Delta Development Board, were specifically adopted to promote the

socioeconomic development of minority ethnic groups in the Eastern Region who had been denied such development by the majority ethnic group-controlled government of the region. Additionally, Special Area Scholarship Awards for higher education were earmarked exclusively for ethnic minority groups in the Niger-Delta areas of the Eastern Region.

One other dilution of segmental autonomy during this period was the increasing federal preeminence in fiscal matters. This was due partly to the exigencies of national planning. But it was also due partly to certain aspects of Nigeria's political economy. For example, fluctuations in the export prices of primary commodities meant decreasing revenue yields for the regions resulting, thereby, in greater fiscal dependence on the center. Constitutional provisions also restricted and in some cases prohibited the regions from obtaining international loans. At the same time, the federal government was securing increasing revenues from oil production. In short, the regions were hard-pressed to raise revenue to match the functions allocated to them by the Constitution. Accordingly, they tended to rely more and more on the center for conditional grants—a situation also aggravated by high unemployment rates, especially in the West and East.

What about the other two consociational elements: grand coalition and proportionality? The office of Prime Minister was introduced in 1957 and the cabinet formed in the three years before independence (1957–1960) was a coalition of nominees of the three main parties—the Northern Peoples Congress, the National Council of Nigeria and the Cameroons, and the Action Group, representing the Northern, Eastern, and Western regions respectively. This was done in order to present a united national front in the critical penultimate years of colonial rule and involve some of the political leaders especially of the three major ethnic groups in government at the center.

This leads to the issue of proportional representation in allocating ministerial, civil service, and other public service appointments. The 1954 Constitution (S.88) provided for the appointment of three ministers from each of the three regions and one from the Southern Cameroons. As a result six ministers were nominated by the NCNC, which won a majority of the seats in the 1954 federal parliamentary elections in each of the Western and Eastern regions. Three ministers were nominated by the NPC, which had a majority in the Northern Region. But because of the preponderant population size of the North, which translated into parliamentary majority for the NPC, the party became, in B.J. Dudley's apt phrase, "the dominant minority in the executive body."⁸

The provision was not included in the 1960 Constitution. However, there was during this period an acute awareness of the need for a broad-based federal executive to reflect the regional balance in the country. Even after the controversial 1964 elections, which returned the NPC to power with an increased majority, the federal cabinet was made up of ministers drawn from

⁸Dudley, *Instability and Political Order*, p. 60.

the four regions. Yet every attempt at proportional representation in selecting the federal executive during this period did not affect the hegemonic position of the NPC within the executive. This position enabled it to exploit successfully differences and conflict among political leaders from the South.

The NPC was able to do this partly because the AG's control of the West was marginal and tenuous, a fact reflected, for example, in the NCNC's substantial electoral strength in the region.⁹ A crisis within the AG in 1962 and the declaration of a state of emergency in the West in the same year encouraged the NPC to actively seek inroads in the region.

This move was dictated by the NPC's need to detach itself from its federal coalition partner, the NCNC, with whom it had serious disagreements over industrial and other national socioeconomic policies. Those disagreements were further exacerbated by personality clashes between the leaders of the two parties, Sir Ahmadu Bello of the NPC and Dr. Michael Okpara of the NCNC. Failure to handle and resolve these contradictions and the chain of events they unleashed was a major contribution to the demise of parliamentary government during the First Republic.

The elements of grand coalition and proportionality were thus closely linked in Nigeria during this period. But their adoption was left more to convention than to entrenched constitutional provisions. Lijphart has observed that the element of grand coalition, and perhaps by implication proportionality as well, was violated in Nigeria during this period because "the party from the Western state became the principal opposition party."¹⁰ But this would have been true even if the AG had been the only party that could have expressed the interests of the Yoruba. Since the position of the AG in the West, among the Yoruba, was marginal for much of this period, the exclusion of the AG from the federal coalition government did not therefore mean that the Yorubas, as an important ethnic segment in the country, were not represented in the federal coalition government.

There were indeed Yoruba ministers drawn from within the parliamentary ranks of Yoruba NCNC members from the West, even before the realignment of 1964–1965, which led to the breakdown of the NPC/NCNC federal coalition (see Table 3). Lijphart's mistake is to assume that the absence of the AG in the federal coalition meant the exclusion of Yorubas from it. A vigorous two-party system in the West during the period meant that the Yoruba political class was less cohesive than its Igbo or Hausa-Fulani counterparts.

If the grand coalition or proportionality rule did not work well during this period, it was therefore not due to the exclusion of the AG or Yorubas from the federal government, but to disagreements arising out of the contradictions of the Nigerian state, its party system, and the manipulation of ethnic sentiments for intra-elite competitive politics. In fact, an interesting feature

⁹Billy J. Dudley, *An Introduction to Nigerian Government and Politics* (Bloomington: Indiana University Press, 1982), p. 48.

¹⁰Lijphart, *Democracy in Plural Societies*, p. 162.

TABLE 3
Ethnic Distribution of Federal Ministers in 1962 and 1964
(including Ministers of State of Cabinet and Non-Cabinet Rank)

| Regions | Number of Ministers | |
|----------|---------------------|------|
| | 1962 | 1964 |
| North | 11 | 12 |
| East | 4 | 6 |
| West | 7 | 5 |
| Mid-West | -- | 2 |

SOURCE: *Nigeria Year Book*, 1962 and 1964.

of party politics toward the end of this period, between 1963 and 1965, was that while ethnicity was being manifestly and symbolically utilized in the political market, cross-cutting cleavages of a class character were also developing simultaneously.

If proportional regional representation in the federal executive was not prescribed in the 1960 Constitution, there were, however, provisions for such representation in a number of statutorily stipulated public service appointments. For example, the Nigeria Police Council was to include, among others, a minister from each region and the center. Proportional representation was also extended to the judiciary. Section 104-(1) of the 1960 Constitution stipulated that the judges of the Supreme Court must include the Chief Judge of each of the regions, in addition to the Chief Justice of the federation and "such number of federal judges (not being less than three) as may be prescribed by Parliament." The Judicial Service Commission included the Chief Judge of each region.

The 1960 and 1963 constitutions did not extend the proportionality rule to appointments and promotions in the federal civil service and other federal public agencies and institutions. However, a number of federal executive functionaries in the exercise of their authority made administrative decisions which utilized affirmative action principles of a reverse discrimination or quota nature. The beneficiaries of these decisions were Northerners, particularly the Hausa-Fulani who were disadvantaged educationally and were therefore inadequately represented in the executive, administrative, and professional cadres of the federal bureaucracy.

The decisions, intended to be compensatory, involved some waiver of merit and seniority principles. For example, Robin Luckham has pointed out, with respect to the Nigerian army, that "in 1961 Alhaji Ribadu, the Minister of Defense, introduced a quota and instructed that entry qualifications be reduced for Northerners."¹¹ This, according to Luckham, was "largely the

¹¹Robin Luckham, *The Nigerian Military: A Sociological Analysis of Authority and Revolt, 1960-67* (London: Cambridge University Press, 1971), pp. 188-189.

result of the alarm of the Northern politicians in the federal government at the small proportion of Northerners in the officers corps—as in other federal bureaucracies to which similar remedies were applied.”¹²

In the federal civil service, compensatory preferential treatment was given to Northerners in appointments and promotions in the executive and administrative cadres. This did not generally mean that Northerners who lacked basic qualifications were recruited or promoted. But in some cases of promotions or appointments to higher positions, seniority or merit considerations were waived for Northern candidates.

This obviously annoyed Southerners, although it was never made clear how many Southern federal civil servants were actually bypassed or denied promotion or appointment. Luckham’s conclusion with respect to the overall effect of the application of the compensatory quota within the officers corps of the army is applicable to the federal public service, though perhaps less so: “The facts about promotion certainly do not indicate any dramatic ethnic/regional bias. But they were uncertain enough for *perceptions* of bias to creep in.”¹³

Compensatory quotas were also extended to admissions to federal secondary schools in the early 1960s with the reservation of a percentage of the annual admission to the Higher School Certificate class at the elite King’s College, Lagos, to Northern students. Although such students were expected to satisfy the minimum entry requirements, failing which they were required to withdraw from the class, the preferential treatment accorded them lay in their exemption from the national competitive examinations conducted for admission to the class.

These developments deserve further comment. First, the executive or administrative action giving expression to them apparently contradicted the freedom from discrimination entrenched in the 1960 and 1963 constitutions insofar as such action conferred on Northerners a “privilege or advantage . . . not conferred on citizens of Nigeria of other communities, tribes, places of origin.”¹⁴ Second, the application of policies to favor Northerners who were not a minority ethnic group, numerically, showed that they were, in a sense, a sociological minority that wanted to “catch up” with the more advanced Southerners who were dominant in the socioeconomic and administrative fields at the federal level.

15 January 1966–30 September 1979 (Military Rule)

Did Nigeria exhibit consociational features, and to what extent was affirmative action utilized, during this period? It is paradoxical that this question should be raised since consociationalism is generally linked to competitive politics of a liberal democratic type which a military, by definition, prohibits.

¹²Ibid., p. 188.

¹³Ibid., p. 191 (emphasis in original).

¹⁴Section 28(1)(b), *1963 Constitution*.

An additional problem is that, to the extent to which the model of politics one adopts is a liberal democratic one, military rule is apparently antithetical to federalism, particularly because of the hierarchical and unified command structure of the military. Nigerian federalism under the military would thus seem to have essentially been a highly decentralized form of unitary government. Under military rule, the federal government assumed unlimited powers of lawmaking. The various state governments had no independent executive power; they exercised only delegated executive power.¹⁵ In other words, power was decentralized rather than deconcentrated. The element of segmental autonomy in both consociational and federal theory would therefore seem to have been compromised by military rule.

If, however, we view consociationalism and federalism not as strictly legal but also as sociological phenomena, military rule is not necessarily fatal to experiments with consociationalism and federalism. It can be argued that Nigeria is inherently a consociationally federal society and that William Livingston's and William Riker's notion of a federal spectrum as a sociological process rather than a legalistic structure offers a more appropriate way of looking at military rule and federalism in Nigeria.¹⁶ It is plausibly the case that federalism as a sociological phenomenon was not thrown overboard during this period. This was because of pressures for state or segmental autonomy. There could not have been a clearer indication of this than the civil unrest that erupted in the North following the proclamation of the unification decree of 24 May 1966, which formally abolished federal government in the country. The unrest was partly responsible for the counter-coup of July 1966 and the repeal of the unification decree by another decree reinstating federalism.

If Nigeria was a federal society during this period, then how was segmental autonomy affected by military rule? It is instructive to see how the issue of state creation was approached, since it was related to segmental autonomy and the character of the federation itself. Two major attempts to deal with the issue occurred during this period. The future of the country as an indivisible entity hung in the balance between May 1966 and May 1967 as secessionist sentiments were openly expressed and confederal options were considered at a series of ad hoc constitutional talks held between September and October 1966 and at the Aburi Meeting in January 1967.¹⁷

This was some of the background against which the country was divided into twelve states on 27 May 1967 (see Table 4). Although the federal govern-

¹⁵Nwabueze, *A Constitutional History of Nigeria*, pp. 220-221 and p. 218 ff. See also O. Achike, *Groundwork of Military Law and Military Rule in Nigeria* (Enugu: Fourth Dimension Publishers, 1978), pp. 174-176.

¹⁶W.S. Livingston, *Federalism and Constitutional Change* (London: Oxford University Press, 1956); W.H. Riker, "Federalism," *Handbook of Political Science*, eds. F.I. Greenstein and N.W. Polsby (Reading, Mass.: Addison Wesley, 1975); K.C. Wheare, *Federal Government* (4th ed.; London: Oxford University Press, 1953). For a critique of the sociological process view of federalism, see S. Rufus Davis, *The Federal Principle* (Berkeley: University of California Press, 1978), pp. 168-170.

¹⁷For details see Dudley, *Instability and Political Order*, pp. 120-201, passim.

TABLE 4
Twelve States Created in 1967

| State | Population | Region from which created |
|-------------------|------------|--|
| 1. Benue-Plateau | 4,009,408 | North |
| 2. East-Central | 6,223,831 | East |
| 3. Kano | 5,774,842 | North |
| 4. Kwara | 2,399,365 | North |
| 5. Lagos | 1,443,567 | Merger of Federal Territory and part of West |
| 6. Mid-West | 2,535,835 | No change from 1963 |
| 7. North-Central | 4,098,305 | North |
| 8. North-Eastern | 7,793,444 | North |
| 9. North-Western | 5,733,296 | North |
| 10. Rivers | 1,544,314 | East |
| 11. South-Eastern | 4,626,317 | East |
| 12. West | 9,487,525 | West |

SOURCE: Abstracted from Odetola, *Military Politics in Nigeria*, p. 53.

ment indicated that a States Delimitation Committee would be set up to consider the creation of additional states, it was not until February 1976 that the number of states was increased from twelve to nineteen as shown in Table 5. The assumption was that this would be the last such exercise. The 1979 Constitution, drafted under the active encouragement of the military between 1975 and 1977, laid down elaborate provisions intended more to discourage than to facilitate the creation of more states.

What do these two exercises at state creation suggest about segmental autonomy? First, both exercises did not clarify the sense in which ethnicity should be used as a criterion for satisfying demands for segmental autonomy. This problem is partly due to practical constraints imposed by demographic movements. It is almost impossible to delimit a territorial space that will be ethnically homogeneous in culture, language, dialect, or religion or which will not include substantial numbers of ethnic group members whose territorial bases are in another state. Consequently, fractions of the political class are likely to exploit this lack of homogeneity in order to advance their interests.

Second, it is probably the case that, to some extent, the cumulative effect of the two exercises has been both to diminish the fear of Northern domination and to strengthen the minority ethnic groups relative to the hegemonic triad of the Hausa-Fulani, Yoruba, and Igbo. This is because each of the three regions which existed at independence has been divided into more states.

TABLE 5
Nineteen States Created in 1976

| State | Population | State created from |
|-------------|------------|--|
| Anambra | 3,571,072 | East Central |
| Bauchi | 2,431,296 | North East |
| Bendel | 2,533,067 | Name change only from Mid-West ^a |
| Benue | 2,427,018 | Benue-Plateau |
| Borno | 2,952,187 | North-East |
| Cross-River | 3,534,217 | Name change only from South East ^a |
| Gongola | 2,650,573 | North East |
| Imo | 3,706,820 | East Central |
| Kaduna | 4,098,305 | Name change only from North Central |
| Kano | 5,774,842 | No change |
| Kwara | 1,714,485 | No change ^a |
| Lagos | 1,443,567 | No change |
| Niger | 1,194,508 | North-West |
| Ogun | 1,550,966 | West |
| Ondo | 2,727,675 | West |
| Oyo | 5,208,884 | West |
| Plateau | 2,016,657 | Benue-Plateau |
| Rivers | 1,585,125 | No change ^a |
| Sokoto | 4,538,788 | North West |

SOURCE: O. Adejuyigbe, "Rationale and Effect of State Creation in Nigeria with Reference to the 19 States," *Readings on Federalism*, eds. A.B. Akinyemi et al. (Lagos: Nigerian Institute of International Affairs, 1979), p. 211.

^aSome territorial and population changes were due to boundary adjustments, consequent on creation of new states out of existing ones.

Although ethnic voting patterns might not have changed much during the 1979 and 1983 elections from what they were during the First Republic, the two elections demonstrated that politics was much more competitive than it was under the three (and later four) state structures of the First Republic. This was due as much to constitutional engineering, especially provisions intended to "deregionalize" or "federalize" the party system, as to the creation of more states.

It has been argued, however, that the creation of more states has not

TABLE 6
Number of States Controlled By Main Ethnic Groups

| Ethnic groups | States Controlled | | |
|---------------|-------------------|------------------|--------------------------------|
| | Number | Total Population | Percent of Nigerian population |
| Hausa-Fulani | 4 | 16,843,231 | 30.25 |
| Yoruba | 5 | 12,645,577 | 22.72 |
| Ibo | 2 | 7,277,892 | 13.07 |
| Others | 8 | 18,903,352 | 33.96 |
| TOTAL | 19 | 55,670,052 | 100.00 |

SOURCE: Adejuyigbe, "Rationale and Effect of State Creation," p. 204.

eliminated the possibility of Northern political domination at the center nor that of Hausa-Fulani, Yoruba, and Igbo domination over the ethnic minority groups. For example, based on his analysis of Table 6, Adejuyigbe claims that because "the three main ethnic nations are in the majority in eleven (57 percent) of the 19 states" and because "the total population of the eleven states is . . . 60.0 percent of the total for the country . . . the creation of states has not therefore affected the possibility of the three main ethnic nations being important in the Central Government."¹⁸

The point is not whether they are "important in the Central Government" but whether they will still occupy the hegemonic role they did in the First Republic in a situation of competitive party politics. However, there is no doubt that the perception held during the last years of the Second Republic (1981-1983), especially among important segments of the Yoruba and Igbo political class, was that state creation has not effectively resolved the problem of Northern political hegemony at the center. This is probably one of the reasons for the suggestion by Chief Bisi Onabanjo, then governor of the state of Ogun, after the 1983 elections, that Nigerians should give serious consideration to adopting a confederal political arrangement.

A third dimension of state creation is that it contributed significantly to tipping the balance of power in favor of the center. Many of the new states were not economically viable and lacked independent fiscal resource bases for executing their allocated functions. This made them look to the federal government for conditional grants. Federal preeminence was also fostered by the hierarchical and unified command structure of the military. This was partly reflected in the practice of posting military officers to serve in states to which they were not native. The trend toward federal preeminence was also facilitated by the sometimes high turnover rate of governors during the

¹⁸Omolade Adejuyigbe, "Rationale and Effect of State Creation in Nigeria With Reference to the 19 States," *Readings on Federalism*, eds. A.B. Akinyemi et al. (Lagos: Nigerian Institute of International Affairs, 1979), p. 204.

1975–1979 period.

Other factors which contributed to federal preeminence during this period included the Nigerian civil war between 1967 and 1970 and certain aspects of Nigeria's political economy, such as a phenomenal increase in revenues from oil exports and changes in revenue allocation formulae.¹⁹ The crucial role played by a number of federal civil servants, the "Super Permanent Secretaries" in particular, between May 1966 and July 1967 was another contributing factor.

The consociational elements of grand coalition and proportionality were reflected in appointments to various federal executive bodies during this period. A Supreme Military Council and a Federal Executive Council were established for much of the period. The Supreme Military Council included state representation, since state military governors were members. From May 1967 civilian commissioners, appointed on the basis of at least one from each state, began to serve on the Federal Executive Council. As a result of structural changes introduced after the 1975 coup, state military governors no longer served on the Supreme Military Council. Instead, they became members of a newly created third structure, the National Council of States.²⁰

During this period, the military generally sought to maintain some ethnic balance in the composition of federal executive bodies, especially the Federal Executive Council, the Supreme Military Council, and later, the National Council of States. In perhaps a loose sense of the word, these bodies were coalitions of significant ethnic groups in the country. If proportionality was reflected in appointments to these executive bodies, it was also applied to the federal public service, as in the appointments of Vice-Chancellors, Chancellors, and Pro-Chancellors of universities, and in the allocation of public projects, and so on.

The utilization of affirmative action as reverse discrimination or proportionality (quota) was vigorously pursued during this period. Higher education was a primary target. The rationale was the same as in the 1960–1966 period, namely that, by giving Northerners preferential treatment in admission to universities and making compensatory educational facilities available to them, the government would ultimately narrow or perhaps close the gap between North and South. Since this would strengthen national unity and integration, such affirmative action was justified on the basis of national or developmental need.

Affirmative action in education and employment is therefore aimed at ultimately diminishing the hegemony of the South in the federal bureaucracy and in the socioeconomic life of the country just as state creation was pur-

¹⁹This aspect of Nigeria's fiscal federalism is discussed in S. Egite Oyovbaire, "The Politics of Revenue Allocation," *Soldiers and Oil: The Political Transformation of Nigeria*, ed. K. Panter-Brick (London: Frank Cass, 1978). On various aspects of military rule and Nigerian federalism, see Chapters 7, 8, 9, 10 and 12 in *Readings on Federalism*.

²⁰For details of the organization of government under the military, see Nwabueze, *A Constitutional History of Nigeria*, pp. 226–231.

TABLE 7
Distribution of State of Origin of Students in Nigerian Universities,
1973-1974 and 1974-1975

| State of Origin | 1973-1974 | | 1974-1975 | |
|-----------------|--------------------|------------------|--------------------|------------------|
| | Number of Students | State Percentage | Number of Students | State Percentage |
| North-Western | 643 | 2.76 | 738 | 2.79 |
| North-Central | 836 | 3.60 | 908 | 3.41 |
| Kano | 578 | 2.50 | 642 | 2.43 |
| North-Eastern | 1017 | 4.39 | 1126 | 4.25 |
| Benue-Plateau | 1108 | 4.77 | 1184 | 4.47 |
| Kwara | 1540 | 6.63 | 1772 | 6.69 |
| Western | 6920 | 29.79 | 7668 | 28.97 |
| Mid-West | 2960 | 12.74 | 3238 | 12.23 |
| Lagos | 486 | 2.09 | 506 | 1.91 |
| East-Central | 5307 | 22.85 | 6758 | 25.53 |
| South-Eastern | 1036 | 4.46 | 1068 | 4.03 |
| Rivers | 466 | 2.00 | 431 | 1.63 |
| Non-Nigerian | 331 | 1.42 | 412 | 1.56 |
| Unspecified | — | — | 24 | 0.10 |

SOURCE: *National Universities Commission Annual Review of Nigerian Universities, 1973-1974 and 1974-1975* (Lagos: Federal Ministry of Information, 1975, 1978), p. 5 and p. 14 respectively.

sued as a means of breaking Northern political hegemony at the center. It should be pointed out, however, that within the North as within the South, there was also a pronounced imbalance between the more educationally developed Yoruba North, the Middle Belt, and Southern Zaria on the one hand, and the Far North on the other hand. Table 7 provides a bird's eye view of the character of the imbalance in admission to universities between 1973 and 1975.

It was primarily to redress this kind of imbalance, which is also reflected in enrollment at the primary and secondary school levels,²¹ that a national policy on education was worked out by the military to guide admissions to certain categories of federal educational institutions. With respect to university education, the National Policy on Education of 1977 affirmed that the aim of policy was to "ensure a more even geographical distribution" of univer-

²¹On the nature of this imbalance and its implications for political conflict, see K.W.J. Post, "Modern Education and Politics in Nigeria," *Education and Politics in Nigeria*, ed. Hans H. Weiler (Freiburg in Breisgau: Verlag Romabach, 1964) and David B. Abernethy, *The Political Dilemma of Popular Education: An African Case* (Stanford: Stanford University Press, 1969), Chaps. 10 and 11.

sities, "to provide a fairer spread of higher educational facilities," and to ensure that "admission of students and recruitment of staff into universities and other institutions of higher learning will be on a broad national basis."²² In Nigeria "a fairer spread" and "broad national basis" are euphemisms for the utilization of quota or proportionality principles as a criterion of allocation, recruitment, or selection to public office and institutions.

In 1975 when the federal government took over exclusive responsibility for university education, there were only six independent universities, which are situated at Ibadan, Nsukka, Ile-Ife, Lagos, and Benin (all in the South) and Zaria in the North. However, Ibadan, Nsukka, and Zaria each had a semi-autonomous campus located respectively at Jos (in the North), Calabar (South), and Kano (North). With the takeover, these three semi-autonomous campuses became full-fledged independent universities.

Four additional universities were also created in Ilorin, Sokoto, and Maiduguri (all in the North) and Port Harcourt (South). By 1975, therefore, there were seven universities in the South (Ibadan, Nsukka, Ife, Lagos, Benin, Calabar, and Port Harcourt) and six in the North (Zaria, Kano, Jos, Ilorin, Sokoto, and Maiduguri). This also meant that there was at least one university in each of the twelve states then in existence.

About this time serious consideration was also given to the utilization of quotas in university admissions, even though quotas threatened to violate the statutes establishing some of these universities. These statutes forbade race or ethnic grouping as a selection criterion. To achieve this aim, the military government established a Joint Admissions and Matriculation Board (JAMB) to monitor and coordinate, among other functions, the equitable ethnic distribution of university admissions. Informal pressures were also applied to universities to ensure a "fairer spread" along ethnic lines in their selection process, although this involved some watering down of merit criteria. It was not until the 1981/82 session that, by administrative action in the form of a federal government circular, universities were compelled to adopt a quota system in their admission procedures.

Compensatory measures were also adopted to help the educationally disadvantaged states "catch up" with the more developed states. For example, the federal government cooperated with eleven states to establish schools of basic studies, which were essentially pre-university preparatory schools, as a means of increasing the number of students from the educationally disadvantaged states who would be qualified for university admission. The federal government also requested seven universities to conduct preliminary courses for students from those states.²³

²²Federal Republic of Nigeria, *National Policy on Education* (Lagos: Federal Ministry of Information, Printing Division, 1977), p. 15.

²³J.S. Attah, "Federal Character and National Educational Policy," Mimeo, p. 10. I am grateful to G.O. Olusanya for drawing my attention to and lending me his copies of this paper and that by Dr. Briggs cited in fn. 29.

1 October 1979–30 December 1983 (The Second Republic)

The Second Republic was pronouncedly consociational. The grand coalition, segmental autonomy, proportionality, and to a lesser extent the mutual veto elements in consociational theory were explicitly written into the 1979 Constitution. Their essence was captured by the requirement of section 14(3) of the Constitution that federal government appointments should reflect “the federal character” of the country so as to ensure that “there shall be no predominance of persons from a few States or from a few ethnic or other sectional groups.”

This requirement demonstrates the elite consensus of inter-elite accommodation among the various fractions of the ethnically based Nigerian political class about how to ensure fairer access among themselves to state power and, through it, to the resources of the state. This is further underlined by the double plurality condition for the election of the president,²⁴ which is a mild form of the mutual veto.

The grand coalition element was reflected in section 135(3) of the 1979 Constitution which enjoins the president in choosing a cabinet to “appoint at least one minister from each State, who shall be an indigene of such a State.” In conforming to this provision in 1979, President Shagari chose most of his cabinet from the two parties—his National Party of Nigeria (NPN) and the Nigerian Peoples’ Party (NPP)—that had entered into a cooperative accord at the National Assembly. His invitation to the other three parties—the United Party of Nigeria (UPN), the Great Nigeria Peoples’ Party (GNPP), and the Peoples’ Redemption Party (PRP)—to join his cabinet was rejected by those parties.²⁵ The accord was also entered into so that the president could be assured a working majority in the National Assembly for the passage of his bills as well as approval of executive appointments requiring Senate confirmation. Shagari’s party, the NPN, did not have a working majority in the National Assembly.

²⁴Dudley, *An Introduction to Nigerian Government and Politics*, p. 162. Cf. van den Berghe, *The Ethnic Phenomenon*, p. 191: “consociationalism is a special form of elite domination based on ethnic proportionality.”

The double plurality condition was part of the decision rules specified in sections 125–126 of the 1979 Constitution for electing the president, with the aim of making it incumbent upon contending presidential candidates to seek as wide an ethnic and geographical spread of support as possible among the national electorate. The rules stipulate that a successful candidate for the office must secure “not less than one-quarter of the votes cast at the election in each of at least two-thirds of all the states in the Federation” in addition to winning *either* a majority of Yes votes over No votes (in the case of a single presidential candidate) *or* a majority of the votes cast at the elections (in the case of only two presidential candidates) *or* the highest votes (in the case of more than two presidential candidates). There are further stipulations for a run-off election if the double plurality condition was not satisfied initially. The double plurality condition was in effect a compromise to moves within the Constitution Drafting Committee to zone and rotate the office of president among the constituent units of the federation.

²⁵An insider’s account of the considerations that went into the composition of the Cabinet is given by the Secretary to the Federal Government, Alhaji Shehu Musa, in his paper, “Nigerian Public Administration under the Presidential Government System: Development at the Federal Level,” read at the National Conference on Twenty Years of Nigerian Public Administration, 1960–1980, held at the University of Ife, Nigeria, October 1980.

The federal cabinet was not a grand coalition in the sense of embracing all of the five registered national political parties. It was a grand coalition in the sense that it included persons selected from among the political class of the various ethnic groups aggregatively represented in the nineteen states of the federation. Ethnic groups and not political parties were represented in the grand coalition, although the exclusion of parties which drew their strength from specific ethnic groups or states might suggest that the coalition was not a grand coalition after all. It might also raise questions as to whether cabinet ministers appointed to represent such ethnic groups or states in the grand coalition were "leaders" of, or were qualified to represent, the interests of their ethnic groups or states.

While such questions are legitimate, they need to take into account the fluidity of party affiliations and allegiances, especially where ethnicity is used to advance the self-interest of a political class and leads to critical dissension or realignment among the leadership of an ethnic group as to which fraction can best advance the collective ethnic interest. In such situations one fraction of the leadership does not necessarily have a monopoly on the claim to represent the collective ethnic interest. For example, it is not self-evident that, in the Second Republic, the Igbo leadership of the NPP, which identified with Dr. Nnamdi Azikiwe, represented the interests of the Igbo more truly than the Igbo leadership in the NPN, which identified with Dr. Alex Ekwueme, the Vice-President of the Federation, and Emeka Ojukwu.

In such a situation, the exclusion of the NPP from the federal cabinet did not mean that Igbo ethnic interests were excluded from the cabinet or that Igbos on the cabinet were puppets of some other ethnic group simply because they did not belong to the NPP. What it does suggest, however, is that the consociational arrangement was under stress, thereby providing some support for Huntington's thesis that "consociational arrangements tend to break down when increasing social mobilization undermines the authority of the leaders who negotiated the arrangement and new, younger leaders appear with more explicitly communal appeals."²⁶

This is indeed one of the paradoxes of the Second Republic. In elaborately setting out conditions, such as those relating to party politics and the double plurality for electing the President, which were designed to mute ethnicity as a centrifugal force, the 1979 Constitution also unleashed forces that reinforced the disintegrative salience of ethnicity. This is the more so because ethnicity was operationally defined through the federal character clause as a major criterion of elite access to political power and socioeconomic resources.

Ethnicity sharpened intra-ethnic conflict among the political class during this period. The problem was not whether a particular ethnic group was denied

²⁶Huntington, "Reform and Stability in a Modernizing Multi-Ethnic Society," p. 14. See also van den Berghe, *The Ethnic Phenomenon*, p. 191: "When counter elites . . . arise, which have an interest in challenging the status quo, ethnicity can easily be fanned into raging separatism, escalating to civil war."

access to political power. This was already ensured as part of the elite consensus creating the Constitution. Rather, the problem was over which fractions of the dominant political class within each ethnic group were to secure and monopolize that privilege. This situation, by sharpening intra-ethnic conflict, also made inter-ethnic collaboration among the various fractions of the political class possible. Federal electoral politics converged with state electoral politics because of the double plurality requirement for the election of the president.

The consociational element of proportionality was extended to appointments to the public services and to the armed forces, to the allocation of public revenue and projects among the states, and to the composition of the following federal executive bodies, the composition of each of which was required to include one member from each state: the Council of States, the Federal Electoral Commission, the National Economic Council, and the National Population Council. The 1979 Constitution also extended proportionality to appointments to the chairmanship and membership of boards of directors of government parastatals.

Let us take some examples. Section 157(5) of the 1979 Constitution enjoined the president to "have regard to the federal character of Nigeria and the need to promote national unity" in making appointments to the following offices: secretary to the Government of the Federation, head of the Civil Service of the Federation, ambassador, high commissioner or other principal representative of Nigeria abroad, permanent secretary or other chief executive in any ministry or department of government of the Federation, and any office on the personal staff of the president. Section 197(2) made it mandatory that "the composition of the officer corps and other ranks of the armed forces of Nigeria shall reflect the federal character of Nigeria." Section 199 empowered the National Assembly to establish a body to ensure that this was done. Proportionality was also reflected in the composition of the federal House of Representatives, with each state allocated a fixed number of members based on its relative population size.

One feature of the application of proportionality in Nigeria, which sets it apart from such consociational polities as Belgium, Cyprus, Malaysia and Lebanon, is that the Nigerian experiment did not specifically reserve or earmark statutorily specified public elective or appointive offices for specific ethnic groups or states. Nor does the inclusion of the proportionality principle in Nigeria assume a distinction between majority and minority ethnic groups in both a numerical and sociological sense, as is the case in India for example. Apparently wishing to avoid any measure that would negatively legitimize ethnic parochialisms, the Constitution Drafting Committee rejected a recommendation of its Sub-Committee on National Objectives and Public Accountability that the imperative of ensuring balance among ethnic groups in public life should be "without prejudice to special safeguards designed to protect the position of minority groups." Whether an ethnic group is a minority in the sense of being sociologically disadvantaged becomes a con-

tingent matter, one for empirical investigation, especially when it comes to translating the proportionality principle into affirmative action, which requires compensatory measures, or in making public service appointments to reflect the federal character. In short, it seems that the proportionality element in Nigeria was based on the principle of equal treatment and hardly that of special group preference. But as will be shown below, administrative action converted this principle of equal treatment into one of special group preference.

Implementation of proportionality during this period was, however, problematic. The basic problem was the inherent ambiguity in the concept of the "federal character of Nigeria" which, according to Section 277(1) of the 1979 Constitution, "refers to the 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." Nor was the ambiguity resolved by the stipulation of Section 14(3) that "there shall be no predominance of persons from a few States or from a few ethnic or other sectional groups" in the composition of the federal government and its agencies and in the conduct of public affairs.

The problem, then, partly revolved around how proportionality was to be achieved, that is, how "predominance" in the context of Section 14(3) was to be prevented or how, where such preeminence already existed, it was to be counteracted. The following policy questions have therefore been raised: Should policy aim at numerical equality or representativeness or geographical spread in the distribution of appointments and promotions and in the allocation of resources? At what level of appointment or promotion should proportionality be applied, at the entry point or at more senior levels? How is proportionality to be achieved without either compromising merit and quality or lowering morale and efficiency within the federal public service?²⁷

There is scanty information on what policy guidelines were developed to deal with these and other questions. The civil service tended to place a veil of secrecy over evolving strategies of implementation. Matters were not much helped by the need for executive-legislative coordination or agreement on what guidelines to follow, since the National Assembly was constitutionally empowered to monitor and ensure compliance of the executive branch with some of the federal character provisions of the Constitution. For example, debate in the Senate over the selection of career diplomats reflected sharp disagreements between the executive and a number of senators over how the federal character was to be reflected in diplomatic appointments.

These problems notwithstanding, heads of government departments and parastatals were expected to ensure compliance with the federal character

²⁷Some of these problems are discussed in Musa, "Nigerian Public Administration Under the Presidential Government System," and A.H.M. Kirk-Greene, "Ethnic Engineering and the 'Federal Character' of Nigeria: Boon of Contentment or Bone of Contentment," *Ethnic and Racial Studies* 6 (October 1983): 466-469.

TABLE 8
Distribution of Federal Permanent Secretaries in May 1982 by State of Origin

| State | Number of Permanent Secretaries | State | Number of Permanent Secretaries |
|-------------|---------------------------------|---------|---------------------------------|
| Anambra | 2 | Kwara | 2 |
| Bauchi | 1 | Lagos | 2 |
| Bendel | 8 | Niger | 1 |
| Benue | 2 | Ogun | 1 |
| Bornu | 2 | Ondo | 2 |
| Cross-River | 1 | Oyo | 2 |
| Gongola | 2 | Plateau | 1 |
| Imo | 1 | Rivers | 2 |
| Kaduna | 2 | Sokoto | 3 |
| Kano | 1 | | |

SOURCE: Executive Office of the President, Lagos, Nigeria, May 1982.

clause of their departments. In some cases, they were required to render periodic accounts of the extent of their compliance. In some other cases, they were asked to defend themselves against accusations of failure to comply with the clause. The general picture that emerged was one of a pragmatic, ad hoc approach in which the favored solution was a mixture of geographical spread and representativeness in appointments and promotions at all levels, ranging from junior to senior staff members. Table 8, for example, shows the distribution of the post of Federal Permanent Secretary by state of origin in May 1982.

The attainment of geographical spread and representativeness in federal establishments was more difficult in less cosmopolitan areas of the country. The need to reflect federal character assumes a general, uninhibited labor mobility within the country. It was a problem to attain geographical spread or representativeness in localities where the population was not representative of the federal character of the country. This is more problematic since the lower level and middle level staff must, out of necessity, be drawn from the locality where the federal establishment is situated. Even in Lagos, perhaps the most cosmopolitan state in the country, some federal establishments, such as the Nigerian Institute of International Affairs, have had to face this problem because of the preponderance of Yorubas, not only from Lagos, but also from the other geographically proximate Yoruba states of Ogun, Oyo and Ondo, in their lower and middle ranks.

Partly because of these practical constraints, there was much more concern with more senior appointments and promotions at these federal establishments. There have been a number of cases in some federal govern-

ment parastatals where appointments and promotions were held back, not because of lack of qualified candidates, but because of the need to find the appropriate candidate to maintain some geographical spread or representativeness among the most senior officers in those parastatals.

The application of the federal character clause to federal public service appointments did not involve the allocation of specific quotas to specified ethnic groups. It was in the area of secondary and higher education, especially admissions and scholarship awards, that a quota system was specifically adopted during the Second Republic. For example, the federal House of Representatives passed a resolution in January 1980 which called for admissions to federal educational institutions to be based on a quota system. On the one hand, the quota was universalized in the sense that it did not favor specific ethnic groups or states. On the other hand, it was particularistic and discriminatory in making special provisions which favored specified states in admission procedures to federal universities. It is in this latter sense that it resembled affirmative action of a reverse discrimination type.

The utilization of quota as a criterion of admission to these institutions was the cumulation of a series of administrative decisions and circulars from the Federal Ministry of Education and the National Universities Commission, which began in the mid-1970s. It is debatable whether the policy, insofar as it involves preferential treatment for particular states or groups of states, is consistent with, or inferable from, the federal character clauses of the Constitution, the educational objectives set out in chapter two of the Constitution as part of the fundamental objectives of state policy, the entrenched provisions on the right to freedom from discrimination, or the National Policy on Education.

The admissions guidelines for all federal government colleges (i.e., high schools in the nineteen states) fall into two categories. For the first category, made up of nineteen federal government (boys') colleges and nineteen federal government (girls') colleges, admission is to be based on 20 percent national merit, 50 percent state quota (i.e., to be shared equally among all the states), and 30 percent environmental quota.

The environmental quota applies to the state in which a college is located. Since there is one such college in every state, the quota is in a sense generalized, irrespective of whether qualification for consideration under the quota is residence in a state or one's state of origin. But if "environmental quota" refers to the immediate locality of the college, then the quota can be discriminatory in making a distinction between candidates within a state.

The second category is made up of the older, more prestigious federal colleges—the King's College and the Queen's College, both in Lagos—and seven federal Schools of Arts and Science which are located in a few states and from which the environmental quota is excluded because it would be discriminatory against some candidates. Admission to this second category is therefore based on 20 percent merit and 80 percent state equality quota. The guidelines for admission to federal teachers' training colleges, technical

colleges, and national technical teachers' colleges are based on the same formula for admission to the second category of federal government colleges for much the same reason—their limited geographical spread: 20 percent merit and 80 percent state equality quota.²⁸

At the beginning of this period in October 1979, there were thirteen universities located in twelve of the nineteen states as follows: Anambra (one), Bendel (one), Borno (one), Cross-River (one), Kaduna (one), Kano (one), Kwara (one), Lagos (one), Oyo (two), Plateau (one), Rivers (one), and Sokoto (one). To meet the demand for the creation of universities in the seven states which did not then have a university, the federal government decided to establish a Federal University of Technology in each of these seven states—Bauchi, Benue, Gongola, Niger, Imo, Ogun, and Ondo—in addition to establishing an Open University and a university in Abuja, the Federal Capital City. The creation of the Federal Universities of Technology and a university at Abuja brought about geographical equality in the location of universities, with the North and South having ten each.

The informal pressures applied to the universities in the mid-1970s to ensure “balance” in their admissions continued into the beginning of the Second Republic. As a result of consultations between the federal government, the National Universities Commission, and the universities, a circular containing admissions guidelines was sent to the universities in mid-1981. The President-in-Council directed the National Universities Commission to work out a system of inducement grants for universities that complied with the directives and sanctions for those that disregarded or halfheartedly enforced the guidelines. That this was considered necessary probably indicates that some universities had serious reservations about the guidelines.

As indicated above, the guidelines involved the utilization of both generalized and particularized (i.e., preferential or discriminatory) quotas. The universities can be divided into three categories, based on the selection criteria common to the universities in each category. Category A is made up of the older, pre-1975 universities, Category B of those established in 1975, and Category C of the Federal Universities of Technology. Table 9 sets out the selection criteria and how they are to be utilized by the universities in each category.

The guidelines are not without problems. For example, the environmental or locality criterion is vague. Although it is intended to refer to the locality in which an institution is situated, the geographical spread of the locality can be problematic. Consider the University of Lagos. What is its locality, its “catchment” area? Some have argued that it should also include the adjoining states of Ogun and Oyo.

Even if the locality is clear, is the criterion to apply only to the state's indigenes or to any student who resides and goes to school in that locality? How is a state's indigene to be identified? Is this to be left to the discretion

²⁸This paragraph as well as the one preceding it is based on information obtained from interviews with officials of the Federal Ministry of Education in May 1982.

TABLE 9
Admissions Quota to Federal Government Universities

| Category of university | Selection Criteria (Percentages) | | | |
|------------------------|----------------------------------|----------|-------------------------------|-----------------------|
| | National merit | Locality | Educationally backward states | University discretion |
| A | 40 | 30 | 20 | 10 |
| B | 30 | 30 | 30 | 10 |
| C | — | 20 | — | 80 ^a |

SOURCE: Admissions Office, University of Lagos.

Category A: Benin, Ibadan, Ife, Lagos, Nsukka (University of Nigeria), Zaria (Ahmadu Bello)

Category B: Bayero (Kano), Calabar, Ilorin, Jos, Maiduguri, Port Harcourt, Sokoto

Category C: All Federal Universities of Technology

^aUniversities are expected to admit students from all over the country.

of admission officers? Another problem is what is to be done when either the environmental or the state quota is not filled? Is this also to be left to the discretion of admissions officers?

A third problem is how "educationally less developed states" (i.e., disadvantaged states) are to be determined. If this is not to be left to the discretion of admissions officers, some objective indices will have to be spelled out and an annual list of such states compiled and circulated. The compilation of such a list will provide a basis for monitoring the effectiveness and impact of quotas in bridging the educational imbalance and in determining when a state should be removed from the list or added to it. The application of preferential or particularized quotas generated heated controversy in the country. Its supporters have generally justified it as a desirable agent of even development and national integration, which will not necessarily lower standards. Critics have pointed to its unfairness, arguing that this kind of quota system encourages and rewards mediocrity and that it is inconsistent with the entrenched fundamental human rights provision of the 1979 Constitution. It is further claimed that, in the long run, its effect is likely to be counter-productive to national unity, especially since it is not clear that it is an *ad interim* measure.²⁹

It is not clear to what extent the universities have complied with these guidelines since their introduction during the 1981/82 academic year. There is reason to believe that some universities have refused to comply or cooperate with the Joint Admissions and Matriculation Board, the clearinghouse for university admissions. It also seems that the general trend reveals a reluc-

²⁹*Times International* (Lagos), 17-23 May 1982, pp. 4-8; P.O. Bodunrin, "Ethnic Balancing and Social Justice," Mimeo; O. Nnoli, "Cultural Pluralism and Human Rights Education in Nigeria," *Human Rights Education in Nigeria*, eds. L. Adele Jinadu and I.U.M. Ivowi (Lagos: Nigeria National Commission for UNESCO, 1982), Chap. 6; Benoni Briggs, "Federal Character and Higher Education in Nigeria," *Bulletin of the National Universities Commission* (Lagos) 2 (July-September 1980): 47-74.

tance by Northern students to accept admission to universities in the South. All in all, the application of quotas has been more successful at the secondary school level where admissions are firmly under the control of the Federal Ministry of Education. The universities control their own selection process.

Federalism typically institutionalizes segmental autonomy. The Second Republic continued the trend toward federal preeminence. This was reflected in the 1979 Constitution's division of legislative lists, provisions for revenue allocations, regulation of interstate commerce including the power to fix minimum producer prices for primary export commodities, and procedures for declaring a state of emergency.³⁰ For example, contrary to the practice in most federations, the 1979 Constitution made local government councils subject to federal control and regulation. This was partly to make them independent of state governments.³¹

There was also substantial segmental autonomy, even if the extent to which it was asserted differed from one state to another and depended as much on a state's resource base as on idiosyncratic factors. For example, some state governments in exercising their exclusive right to primary education and the concurrent right to secondary education virtually denied admission to state-run primary and secondary schools to children of nonindigenes of their states. The collective clout of the states was also illustrated by the controversy over the revenue allocation formula, which was resolved in January 1982 on the following basis: federal government, 55 percent; state governments, 35 percent; and local governments, 10 percent. The states' allocation was to be shared among the states thus: 40 percent on the basis of equality of states; 40 percent on population; 15 percent on a social development factor; and 5 percent on an internal revenue factor.

State creation movements proliferated during this period, indicating a fundamental breakdown in the elite accommodation over the federal character principle. The deepening contradictions of the Nigerian state created fissures within the political class. Ethnicity, manifesting itself as a demand for new states, once again became a slogan for securing mass popular support by aspiring fractions of the political class.³² By December 1982, the House of Representatives Committee on State Creation had recommended the creation of an additional twenty-one states. This was followed by the recommendation of the Senate Committee on State Creation in January 1983 for the creation of twenty-six new states.

The state creation issue, however, demonstrated the extent to which the political class was prepared to go to create more states by riding roughshod

³⁰A useful discussion is James S. Read, "The New Constitution of Nigeria, 1979: 'The Washington Model'?" *Journal of African Law* 23 (1979): 131-169, but especially 139-142 and 152-155.

³¹B.O. Nwabueze, *The Presidential Constitution of Nigeria* (New York: St. Martin's Press, 1982), pp. 59-60; L. Adele Jinadu, "The Constitutional Situation of the Nigerian States," *Publius: The Journal of Federalism* 12 (Winter 1982): 169-173.

³²An extended discussion of this is offered by O. Nnoli, "The National Question, Ethnicity and the Creation of States in Nigeria," Mimeo.

over the Constitution. The 1979 Constitution had virtually given the states a veto over the creation of new states by making the procedure to be followed so technically opaque and tedious. Referring to Section 8 of the Constitution, James Read observes that "if the draftsman was instructed to produce a section which would effectively prevent any future tampering with the present States, he has succeeded admirably."³³

Military Rule Since 31 December 1983

The Second Republic ended on 31 December 1983 with the execution of a successful coup d'état by some officers of the Nigerian armed forces. The immediate background to the coup is briefly the following. Federalism and the interplay of intra-elite conflict, reflected in party politics, particularly during the last two years of the Second Republic, involved significant deviation from the constitutive rules establishing the republic. As a result, the legitimacy and support bases of the federal government and most of the state governments were questioned by significant elements within the armed forces. The 1983 elections for executive and legislative offices were wantonly manipulated and blatantly rigged. Politicians behaved as if they were deliberately working for the destruction of the federation.

Political irresponsibility was compounded by the conjuncture of destabilizing forces unleashed by the world recession, the dramatic drop in oil revenue, the squeeze on international credit, rising unemployment, soaring inflation, chronic food shortages, and incessant disruption of public utilities. Most of these socioeconomic problems were a direct result of investment and other public sector macroeconomic decisions taken by military governments during the 1966–1979 period. Nevertheless, politicians of the Second Republic compounded them with ostentatiously imprudent and kleptocratic behavior.

Against this background one can briefly indicate the probable developments of the Nigerian state during this period, given the obvious constraint that it may be too early to discern a pattern. Federalism has been retained, although parts of the Constitution have been suspended, such as provisions relating to federal and state executives and legislatures. But the nineteen-state structure has been retained, and military governors of these states are members of the National Council of States. Moreover, federal preeminence is likely to be more pronounced if only because of the unified command and hierarchical structure of the military. One aspect of segmental autonomy, which will not now be satisfied, is the creation of more states. State creation movements have been proscribed, although it seems this was due more to financial considerations than to objections to state creation as such.

There is reason to believe that the new federal military government will retain some of the affirmative action policies on proportionality in public service and public institutions. For example, although the composition of the Supreme Military Council was criticized for not reflecting the federal

³³Read, "The New Constitution of Nigeria, 1979," p. 164.

character, in that it was preponderantly made up of Northerners, the federal military government later made appointments to the National Council of States and the Federal Executive Council to reflect the federal character. Indeed, whether separatist or confederal sentiments will be ascendant during this period may very well depend on the extent to which the new regime is successful in countering or disabusing the perception that it is partial to one section of the country.

CONCLUDING NOTE

This article has utilized institutional analysis with a primary focus on constitutions to indicate and explain the intricate relationship between the structure of ethnic relations, especially its class-based character, and the distribution of political authority in Nigeria since 1960. The aim has been implicitly to suggest that recent shifts toward political economy in the historiography of African politics may not be incompatible with certain types of institutional analysis that focus on how constitutions and institutional arrangements deriving from them have been structured to advance and regulate intra-elite political behavior.

The article has argued that Nigerian federalism is based on a theory of the rights of ethnic groups to autonomous coexistence within the Nigerian state. This theory, advanced by the emergent political class among the various ethnic groups in the country, has also provided a basis for developing and utilizing consociational conflict-regulating mechanisms, some of which gave rise to affirmative action measures, to consolidate elite domination.

The effectiveness of federalism and consociationalism as conflict-regulating institutional procedures and arrangements has, however, been limited. This is partly due to the character of the competition for the capture and control of the state, especially during the First and Second Republics. In both republics there emerged trends and contradictions which impelled political parties to cross-cut ethnic cleavages. As a result the conflict-regulating arrangements, designed to reflect ethnic cleavages, were inappropriate for resolving what were essentially intra-class cleavages. The deep divisions among the Yoruba political class in the mid-1960s and among the Hausa-Fulani, Yoruba and Igbo political classes during the Second Republic, illustrate quite well a major problem or weakness with federalism and consociationalism as elite solutions to ethnic conflict in Nigeria.

The limited effectiveness of these regulatory mechanisms is also partly but fundamentally due to a crude Machiavellian equation of political conflict in civil society with a war situation in which rules can be disregarded and in which one's political adversaries must be annihilated. As Claude Ake has argued, this conception of political conflict must be concretely situated in the highly statist political economy of African countries and the high premium placed on the control of state power: "Since the stakes are so high, the competitors do everything to win. Little attention is paid to constitutional

behaviour, and the law is amended, reinterpreted, blatantly violated . . . to suit the purposes of the hegemonic faction of the bourgeoisie. The tendency . . . is to annihilate political opponents instead of merely defeating them.”³⁴

The problem with federalism and consociationalism in Nigeria is to be sought *not* in a pattern of ethnic voting or failure to create a Nigerian nation but in this zero-sum approach to political conflict, an approach which is fundamentally at variance with the emphasis of federalism and consociationalism on compromise and checks on political excesses.

³⁴Claude Ake, “Explanatory Notes on the Political Economy of Africa,” *Journal of Modern African Studies* 14 (March 1976): 11.