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Doctor of Philosophy (PhD)

FEDERALISM AND CONFLICT MANAGEMENT:
THE CASES OF NIGERIA AND SOUTH AFRICA

Elem EYRİCE TEPECİKLİOĞLU




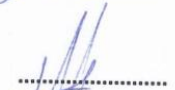

Supervisor
Prof. Dr. Nazif MANDACI

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University : Dokuz Eylul University
Graduate School : Graduate School of Social Sciences
Name and Surname : Elem EYRICE TEPECİKLIOĞLU
Title of the Thesis : Federalism and Conflict Management: The Cases of Nigeria and South Africa
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Supervisor : Prof.Dr.Nazif MANDACI

EXAMINING COMMITTEE MEMBERS

<u>Title,Name and Surname</u>	<u>University</u>	<u>Signature</u>
Prof.Dr.Nazif MANDACI	YAŞAR UNIVERSITY	
Prof.Dr.Nilüfer KARACASULU	DOKUZ EYLUL UNIVERSITY	
Assist Prof.Dr.Şevket OVALI	DOKUZ EYLUL UNIVERSITY	
Assist Prof.Dr.Nazmi ÜSTE	DOKUZ EYLUL UNIVERSITY	
Prof.Dr.Tanju TOSUN	EGE UNIVERSITY	

Unanimity (X)
Majority of votes ()

The thesis titled as "**Federalism and Conflict Management: The Cases of Nigeria and South Africa**" prepared and presented by Elem EYRICE TEPECİKLIOĞLU is accepted and approved.

Prof.Dr. Utku UTKULU
Director

DECLARATION

I hereby declare that this doctoral thesis titled as “**Federalism and Conflict Management: The Cases of Nigeria and South Africa**” has been written by myself in accordance with the academic rules and ethical conduct. I also declare that all materials benefited in this thesis consist of the mentioned resources in the reference list. I verify all these with my honour.

Date

/ /2013

Elem EYRİCE TEPECİKLIOĞLU

ABSTRACT

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**Federalism and Conflict Management: The Cases of Nigeria and South
Africa**

Elem EYRİCE TEPECİKLIÖĞLU

Dokuz Eylül University

Graduate School of Social Sciences

Department of International Relations

International Relations Program

There is an increasing scholarly interest in federalism studies among the students of political science which gained more currency within the last few decades. The popularity of federalism in the academia coincides with the importance of issue in the political field especially among the policy-makers of multi-ethnic societies. Given the surge in federalism studies, it is no surprise that the literature on federalism is immense, however, not much work is done to analyze the capacity of federalism to reduce or eliminate intra-group or inter-groups conflicts. This study is the product of the academic and political interest in federalism. It also aims at providing a contribution to the analysis of the potential linkage between federalism and conflict management and the feasibility of federalism as an effective conflict management device. Two African countries have been selected as case studies in our humble effort to contribute to a still-evolving field; South Africa, a quasi-federal country by post-1994 (democratic) transition era and Nigeria, the first and longest-standing federal African country.

Federal arrangements and practices in each case have peculiar characteristics which evolved in different historical and socio-political contexts. This explains why the application of federalism and its capacity to manage conflicts differ in both of our case studies. As the conclusion part will indicate, South African federalism has been more successful in accommodating conflicts

when compared to that of Nigeria; albeit we cannot claim that Nigerian federalism has completely failed in that regard. However, while analyzing the relative failure of Nigerian federalism in conflict management, one should consider the fact that federalism is a process and, thus, the conflict management capacity of federal applications is better seen in the middle or long-term. Moreover, it is not the “federal idea” which failed in the Nigerian case but the lack of full implementation of federal principles -which requires some revisions- adopted through constitutional provisions.

Keywords: Federalism, Conflict Management, South Africa, Nigeria.

ÖZET

Doktora Tezi

Federalizm ve Çatışma Yönetimi: Nijerya ve Güney Afrika Örnekleri Elem EYRİCE TEPECİKLİOĞLU

Dokuz Eylül Üniversitesi

Sosyal Bilimler Enstitüsü

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İngilizce Uluslararası İlişkiler Programı

Federalizm çalışmaları, siyaset bilimciler arasında geçtiğimiz yıllarda oldukça rağbet gören bir çalışma alanı haline gelmiştir. Federalizmin akademideki popülaritesinin artışı, özellikle çok etnik yapıli toplumlardaki siyasetçiler nezdinde konuya olan siyasi ilginin artışı ile paralellik arz etmektedir. Ancak, federalizme yönelik literatürün oldukça geniş olmasına rağmen, bu yönetim sisteminin grup-içi ya da gruplar-arası çatışmaları azaltma ya da ortadan kaldırma kapasitelerine yönelik çok fazla çalışma yapılmadığı görülmektedir. Bu doktora tezi, konuya yönelik akademik ve siyasi ilginin bir sonucu olup, federalizmin çatışma yönetiminde oynadığı rolün anlaşılmasına yönelik literatüre bir katkı sunmayı amaçlamaktadır. Bu amaçla, 1994 yılındaki (demokratik) geçiş sürecinin ardından yarı-federal bir ülke olarak kabul edilen Güney Afrika ve Afrika'nın ilk ve en uzun ömürlü federal ülkesi olan Nijerya üzerinden örnek olay incelemesi yapılacaktır.

Her iki örnekte de federal düzenlemeler ve uygulamalar, farklı tarihsel ve sosyo-politik ortamlardan beslenen kendine özgü özellikler barındırmaktadır. Bu durum, aynı zamanda, federal uygulamaların çatışma çözümü kapasitelerinin de farklı olmasının altında yatan temel nedendir. Tezin sonuç bölümünde de görüleceği üzere, federalizmin Güney Afrika'da, Nijerya'ya kıyasla çatışma yönetiminde daha başarılı olduğunu söyleyebiliriz. Ancak bu durum, Nijerya'nın bu konuda tamamen yetersiz olduğu anlamına gelmemektedir. Federalizmin Nijerya'daki göreceli başarısızlığını incelerken, federalizmin bir süreç olduğunu ve bu nedenle, federal uygulamaların çatışma

yönetimi kapasitelerinin orta ve uzun vadede daha iyi bir şekilde görüleceğini göz önünde bulundurmak gerekmektedir. Ayrıca, Nijerya örneğinde başarısız olan “federal fikrin” kendisi değil, anayasal hükümler aracılığıyla kabul edilen ve bazı değişiklikler gerektiren federal ilkelerin tam olarak uygulanmayışıdır.

Anahtar Kelimeler: Federalizm, Çatışma Yönetimi, Güney Afrika, Nijerya.

**FEDERALISM AND CONFLICT MANAGEMENT: THE CASES OF
NIGERIA AND SOUTH AFRICA**

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ABBREVIATIONS

ACDP	African Christian Democratic Party
ACN	Action Congress of Nigeria
AD	Alliance for Democracy
ANC	African National Congress
ANNPP	All Nigeria People's Party
APP	All People's Party
AT	Amended Text
AVF	Afrikaner Volksfront
AZAPO	Azanian People's Organization
Ch.	Chapter
CODESA	Congress for a Democratic South Africa
CM	Conflict Management
COPE	Congress of the People
FCP	Federal Character Principle
CP	Conservative Party
CPs	Constitutional Principles
COSATU	South African Trade Unions
DA	Democratic Alliance/Demokratiese Alliansie
DP	Democratic Party
EU	European Union
FCC	Federal Character Commission
FCT	Federal Capital Territory
FF	Freedom Front
GNP	Gross National Product
GNU	Government of National Unity
IC	Interim Constitution
ID	Independent Democrats
IFP	Inkatha Freedom Party
LGAs	Local Government Areas
NNP	New National Party

NP	National Party
NPN	National Party of Nigeria
NRC	National Republican Convention
NT	New Text
OIC	Organization of the Islamic Conference
PAC	Pan Africanist Congress of Azania
PDP	People's Democratic Party
SACP	South African Communist Party
Sc.	Section
SDP	Social Democratic Party
Ss	Sections
TRC	Truth and Reconciliation Commission
UAE	United Arab Emirates
UCDP	United Christian Democratic Party
UDF	United Democratic Front
UDM	United Democratic Movement
UK	United Kingdom
USA	United States of America
USSR	Union of Soviet Socialist Republics
VF	Vryheidsfront

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INTRODUCTION

Federalism can be roughly defined as a specific form of political government in which there is at least two levels of government, the federal and the states, having constitutionally recognized competencies. In a federal system, there is a power-sharing between these two levels of government. Each level has exclusive competencies while at the same time, having concurrent powers defined in the constitution. For example, the national government retains certain authority in areas of foreign policy, foreign affairs, defense and customs whereas federal states have autonomy and powers over cultural issues such as agriculture, education and public health. Taxing power is generally divided between these two levels of government.

The idea of federalism or any other devolved forms of government have been long debated in the political science literature including the writings of great philosophers. More than two centuries ago, for example, Kant offered “a federation of peoples” in order to secure the rule of law and to maintain international peace. A federalism of free states was the second definitive article of his idea of perpetual peace (See Kleingeld, 2006). However, before Kant’s idea of an international federation, philosophers like Spinoza, Althusius, Hugo and Leibniz had already articulated the federal systems in the seventeenth century of Europe (See Riley, 1976 and Ward, 2009). Among them, a German intellectual, Johannes Althusius is often considered as “the father of modern federalism.”¹ In 1863, a French philosopher, Pierre-Joseph Proudhon predicted the twentieth century to open the age of federations (cited in Cameron and Falletti, 2005: 245).² It is further argued that if the mid-twentieth century was indeed the “age of federalism” as Proudhon had anticipated, the twentieth century is an epoch of federal practice (Gibson, 2004: 2) when several federal states seek to enhance their autonomy within the federal

¹ As Hueglin points out, it is interesting to note that being considered as “the father of modern federalism”, Althusius did only use the concepts of “federal” or “federation” when discussing the origins of a confederal commonwealth. In his idea, such a formation could be stemmed from the desire of a number of polities to attain mutual security and benefit. Moreover, while seeing the unity of such a federal polity on a social contract, covenant or compact, Althusius based on three principles of federalism which are described by Hueglin as “the pluralization of governance”, “consent requirement” and “a normative commitment to social solidarity” (1999: 2-4).

² Althusius and Proudhon are both taken as the two main representatives of European federalism. The former is associated with the political-theological strand of European federalism whilst the latter is mostly associated with secular anarchist-socialist intellectual strand (Burgess, 2000: 4).

framework (McBeath and Helms, 1983: 21). Elazar defines the era after the Second World War as a time when a hidden revolution, namely, “the federalist revolution” spread the entire world while following this war, a paradigm shift which was led by the rise in federal and confederal arrangements emerged slowly. To Elazar, “Still, at no time in history have federal principles and arrangements been as widely and successfully used as in our times” (1981b: 5; 1991: 6; 1993: 194; 1995: 5-13).³

Many scholars draw attention to this rise in the number of federal systems and offer several explanations on this surge including the fall of the Berlin Wall or the collapse of the Soviet Union, the reform initiatives in the older federations, the opting of some federal features in unitary states, the weakening of the traditional nation-state, the rise of globalization and “increasing pressures for integration and for disintegration.” The evolving of the European Union (EU) into a federal-like system is also evaluated as another significant underlying factor behind this increasing political interest on federalism (Bermeo, 2002: 96-97; Blindenbacher and Watts, 2003; Elazar, 1998; Erk and Swenden, 2010; Kincaid, 1995: 29, Watts, 1998: 118).⁴ The increasing importance of the issue in the political field and the rising number of countries embracing decentralized forms of government including federalism, confederalism or consociationalism contributed to the current interest in federalism scholarship and the growth of this literature. Riker had already informed about this popularity of federalism in the academia in the late 1960s (1969: 135). The African countries follow this new continent-wide trend and transfer powers to subnational

³ In 1995, Elazar noted that “At present, there are twenty-one federations containing some 2,000,000,000 people (40 percent of the total world population). They are divided into over 350 constituent or federated states” (1995: 15). In 2003, Blindenbacher and Watts heralded that the number has increased to twenty five countries which are mostly multicultural or multinational (2003: 9). As far as the Forum of Federations informs, two more countries, which are accepted as federal countries in transition, namely Iraq and Sudan, can be added to that number (See Forum of Federations. Federalism by Country. http://www.forumfed.org/en/federalism/by_country/index.php, 24 May 2012).

⁴ Many scholars who analyze the division of political power between the European Union and its member states, see the Union as an organization which carry federal-like characteristics (Bulmer, 1996; Burgess, 1996) or already a federal system (Kelemen, 2003: 185) while some of them hold that further reforms within the EU institutions may make it a federal system (Pinder, 1996). However, it is also accepted that although having many federal attributes, the European Union is not “a federation in the classical sense” (Burgess, 1996: 1). In some analysis, the European Union is evaluated as a confederation which has the capacity to become a federation in the future (Loughlin, 1996: 162), or a new type of federalism incorporating the elements of the American, Swiss and German federations (Verney, 2002: 35-36). Even though increasingly rising scholars who study European federalism hold that the EU is leaning towards a more federal structure, within the study, we analyze federalism in the national contexts not in an inter-state or regional manner.

political units while mostly failing to achieve a true decentralization (Fessha and Kirkby, 2008: 248).

The literature elaborating the impacts of federalism is immense, however, scholars are divided in their arguments on such a territorial division of power: Some of them are explicitly in defense of this multi-tiered government while arguing that federalism, federal institutions or internal reorganization of states stimulates economic efficiency (L. Diamond, 1999; Sunstein, 1993; Weingast, 1995), foster democracy (Bindebir et al., 2003; Boix, 2003; Chrysochoou, 1998; Elazar, 1993 and 1995; Myerson, 2006; Samuels and Abrucio, 2000; Singh, n.d; Stepan, 1999; Sunstein, 1993) or contributes to implement peaceful democratic change in plural societies (Lijphart, 1979: 514), safeguard sminority rights and thus, creates equality (Lijphart, 1999), particularly by enhancing public participation in decision-making processes or by granting autonomy to federal states in certain areas. Federalism is also assumed to accommodate ethnic diversity and thus, help to diminish or eliminate conflicts in deeply divided societies while, at the same time, bringing these multicultural societies together (Horowitz, 1985; L. Diamond, 1999; Fleiner et al., 2003; Kimenyi, 1998 and 2002; Kymlicka, 1995; Sunstein, 1993), while recognizing the diversity of different groups within the society and also helping to perform electoral reform (Horowitz, 1985 and 2003). Federalism, therefore, is seen as an effective mechanism to achieve and preserve national integration as well as stability in divided societies (Ojo, 2009: 386). It is also asserted that federalism can combine the benefits of unity and diversity or at least can search for equilibrium between these two poles (Ibrahim, 2003; Ojo, 2009; Watts, 1998 and 2002).⁵ Another argument in favor of decentralized forms of government is that federal and consociational systems provide better governance to diverse societies (Wunsch, 2000: 487).⁶

⁵ Feeley and Rubin also define federalism as a compromise between unity and dissociation “where people possess dual identities that both unite them and divide them from each other” (Feeley and Rubin, 2008: 50).

⁶ Many scholars argued that federal systems of government are mostly applied in territorially largest, plural or democratic societies having large populations (Lijphart, 1999: 195; Kincaid, 1995: 35; Stepan, 1999: 19 and 2004b: 441). While evaluating federations as the geographically expressive of all political systems, Robinson believes that federalism is suitable for countries having large areas but small populations, or having large populations settled dispersedly (1961: 2). However, these arguments do not mean that the adoption of a federal system is only related to the size of a country’s territory or its population density. A prominent example is Switzerland, whose experience with

On the other hand, the critics of federalism or other types of decentralization argue that there is no direct correlation between federalism and its attributed potentials. In other words, as skeptics assert, there is no guarantee that a federal system of government will encourage democracy, provide economic prosperity or increase minority rights (Castles, 1999; Feeley and Rubin, 2008; Filippov and Shvetsova 2011; Keman, 2000; Linz, 1997; Rubin, 1997). In this regard, several critiques have been raised on the failure of federal systems to achieve desired goals. Beramendi, for example, defines the assumed merits or benefits of federalism as a “federal illusion” (2007: 759) whereas Gerring, Thacker and Moreno argue that systems like unitary and parliamentary have advantages as compared to federal or presidential systems and they promote better governance outcomes (2005: 567-569). In a different manner, Mawhood notes that federal types of government is mostly short-lived in less developed countries for a number of reasons while, in many of these cases, federations have disintegrated or become unitary states including Nigeria (1984: 521). Another criticism on the issue is that the introduction of power-sharing models such as consociationalism “might make matters worse” especially in divided societies (Barry, 1975: 393).

We can add a third group to these relatively opposite parties, the scholars who draw attention to the dangers of not being cautious when analyzing federal systems since the above-mentioned advantages of federalism might not necessarily be the result of the adoption of such a form of government but the outcome of different factors within the political system. Therefore, some scholars call for a more careful study of federalism (Anderson, 2010; Bermeo, 2002; Coakley, 2005; Davis, 1978; Gibson, 2004; Lancaster and Hicks, 2000; Lane and Ersson, 2005; Pierson, 1995) and point out the need to be careful about some of the pitfalls of federalism (Ibrahim, 2003).

The question if the advocates or skeptics of federalism are right is not easy to answer; however, the success of federalism in the African continent is yet to be seen. After the experience of unitary systems with high degrees of centralization, the

federalism is nearly one and a half centuries old. Nevertheless, governing larger territories with decentralized forms of government may provide better governance both due to the difficulty to govern such a large entity from one centre and the reality that federating units have a better knowledge of the regions’ needs than from the officials sitting at the center.

analysis of federal systems of government in Africa, which were only tried for brief periods except the unique case of Nigeria, deserves a closer scrutiny. Furthermore, federalism, if applied properly, can offer many advantages to the multi-ethnic states of Africa, particularly by dividing powers between the center and the constituent units and by the granting of autonomy to certain groups. It should also be noted that in an environment where only a minority of Africa's ethnic groups are seeking for independence or secession, regional autonomy can both prevent the oppression of particular ethnicities by other dominant groups and provide a space for peace and stability in African countries. However, in order to maintain the development of federalism in the African state, determined policies on the real practice of constitutional rights are required.

Increasingly rising policy-makers in African countries consider the application of decentralized forms of government as a remedy to provide national/territorial integrity and to maintain diversity. In this process, elimination or moderation of diversity-related conflicts, be they ethnic, regional, religious or racial is important for Africa's multi-ethnic societies. How this specific government system is used to accommodate conflicts through institutional means -as a non-violent device of achieving power- will be analyzed in two case studies, namely, South Africa and Nigeria.⁷

It is usually the case that federal countries explicitly include their federal character in their constitutions whereas the status of other quasi-federal or decentralized states of Africa –including one of our two cases, South Africa- is controversial. Following the end of the apartheid regime in 1994, the government system of South Africa began to be considered by many students of federalism as quasi-federal. On the other hand, many South African politicians avoid using the term “federal” on the grounds that such a definition would reinforce already existing divisions in the country based on racial or ethnic lines as similar to that of the apartheid era. However, although being “reluctant federalists” (Murray and Simeon, 2011: 232), there is evidence to believe that the government system in South Africa is unquestionably federal. The other case of the study, Nigeria, is Africa's first federal country - it is among the two African countries that were federal at

⁷ For the location of two countries on the African continent, please see Appendix 1.

independence⁸ - which adopted a federal system in 1954, during the last years of British rule. The federal system was also maintained after gaining independence in 1960 except the interlude between the Unification Decree 34 of May 1966⁹ and July 1966. The number of Nigerian federal states increased over time following the successive constitutions making amendments both regarding the number of constituent units and their rights guaranteed by constitutional provisions.¹⁰ Although the character of federalism in these countries differs in many aspects, they also have similar characteristics. For example, in both of these countries, the major purpose behind the adoption of federal principles is to accommodate their diversity and manage or mitigate the conflicts that have divided their countries for decades and even for centuries. The struggle of South Africa and Nigeria to find an appropriate form of government in maintaining “diversity within unity” will be examined within these countries’ peculiar socio-economic, political, historical and cultural environment.

Here, it is important to note that federalism is among the many institutional arrangements which are designed to manage conflicts. This simply means that the application of federalism is not the sole option for the countries suffering from intransigent conflicts. Moreover, in deciding whether federalism has succeeded in managing (ethnic) conflicts through institutional means in two case studies, there are difficulties. First of all, there is no certain or general list of criteria to measure this success in conflict management or in any other aspect. In other words, there is no universal list to be applied to all federal countries in order to determine the relative success or failure of the federal applications in bringing the desired outcomes. Scholars emphasize different factors for a federal type of political organization to be successful. Peterson, for example, points out two principals of federalism: the fiscal autonomy of federal states, that is, collecting taxes from citizens –in order to act independently - and free elections by which citizens elect their officials in each level of government (1995: 14). To Horowitz, “the most stable federations have tended to

⁸ The other country is Cameroon where federalism was abandoned following the first decade of independence (Adamolekun, 1991: 1, footnote 1).

⁹ This Decree proclaimed Nigeria a unitary state.

¹⁰ As will be explained in more detail within the fourth chapter, the roots of Nigerian federalism actually lie in the Amalgamation of 1914 which welded together three territorial regions -the Lagos Colony and Protectorate, and the Protectorates of Northern and Southern Nigeria - under one rule.

be those that have four features: equality of powers among the component units, equality of size among the component units, a reasonable number of units and units based on preexisting boundaries” (2008: 963). McGarry and O’Leary touch on different factors such as the presence of a *Staatsvolk*,¹¹ a consociational central government, the formation of the federal system through the voluntary actions of federal units and prosperity as well as distributive fairness within all the levels of government (2005: 19-25). The authors also suggest that the success of federalism in any particular country does not only depend on the nature of federalism itself but at the same time, on the application of consociational practices in the central government especially when there is no *Staatsvolk* (2005: 26).

However, in Diamond’s words, to determine whether federalism can survive, we should know what we want from federalism and what federalism can supply (M. Diamond, 1973: 151). This simply means that federalism in a particular country could be deemed successful if the fundamental objectives of its creation have been met. The major goals that political élites try to achieve by opting federalism are important in analyzing the success of a federal system in a particular country. Those reasons may vary to strengthen democracy or foster economic development to the elimination of ethnic conflicts or simply conflict-reduction. In both of the case studies, it is observed that the major expectation in designing and maintaining federal systems is to provide national unity through management of existing intra-group and inter-group conflicts. Both in Nigeria and South Africa, it was expected that the application of federal principles could provide a peaceful environment where all segments of the society can coexist. This study will, therefore, discuss the use of federalism in accommodating ethnic, racial, regional or religious conflicts on the basis of two case studies. This will be done by evaluating the contexts of each case and the main drives behind adopting federal systems. To put it differently, while government systems like federalism evolve through time in the existence of different conditions, what really matters is the major expectations from federalism.

THE RESEARCH PROBLEM

¹¹ *Staatsvolk* is a German term which simply means “national people” or “state people.” While “staat” means country or nation, the term “volk” refers to the people of that nation.

The rise of the federalism literature and the political popularity of the debate especially in multi-ethnic (African) states suffering from the conflicts between the national government and sub-groupings is one of the main motivations behind the choice of a study topic related to federalism. Increasingly rising policy-makers in the societies riven by various identity conflicts consider the application of federalism or other types of decentralized governance as a way to accommodate inter-group tensions and thus, to maintain political and national integration. African countries are among those countries struggling to find viable strategies to overcome the everlasting effects of the nation-building process(es) and peacefully manage diversity within their societies. Among them, this study uses the federal experiences of two African countries as case studies. However, here, it should be emphasized that conflicts are not resolved yet managed or transformed in many countries including our cases. It does not necessarily mean that conflicts can never be resolved but instead, it means that conflict management is a continuing process having the potential of reescalation. It is for these reasons that the use of the term “conflict resolution” has been avoided within the context of the study while a preference was made on the use of “conflict management.”

Within the study, the promise of African federalism will be analyzed through a detailed analysis of the federal practices in Nigeria and South Africa. For now, it seems that the problem of federalism in Africa is not the idea of federalism itself but the misapplication of federal principles and unwillingness of national leaders to limit their political power through the adopting of decentralized systems of governance. On the other hand, African leaders have difficulties in satisfying diverging demands of different groups within their territories. Our selected cases will provide us a better understanding on whether federalism has the potential to solve the problems of the African state related to intransigent intra-ethnic and inter-ethnic conflicts. By presenting a comparative analysis, the study purposes, amongst other things, to analyze different policies, (federal) institutions and instruments used to effectively manage ethnic conflicts.¹² Such a comparison is also believed to introduce different

¹² In particular situations, federal constitutional structures may be the subject of negotiation or federal structures allowing negotiation/renegotiation may be used as the method of conflict management.

patterns of ethnic conflict management in particular situations and to elaborate if federalism has the ability to be a crucial conflict management device. We can arrive at a more effective analysis of federalism's capacity in conflict management through an evaluation of the relative or respective success and failure of each case. As will be analyzed in the following chapters, the difficulties in managing the deeply-rooted ethnic conflicts are many in our cases.

Before proceeding to our main research questions, it is important to note that Ethiopia, Nigeria and Comoros¹³ are the only three constitutional African federations with the exception of Tanzania which has federal-like relationship with Zanzibar. As similar to South Africa, Tanzanian Constitution of 1977 does not define itself as a federation. However, it should be noted that these are not the sole African countries that adopted power-sharing formulas like federalism. As will be elaborated in the following chapter which will provide a theoretical framework of the federal idea, there have been and still are many other African countries including South Africa which embraced decentralized forms of government. Nevertheless, today, Nigeria, Ethiopia and South Africa are generally accepted as the only formal federations of Africa. As noted, the opting of federalism in Nigeria can be traced back to the last years of British colonialism. In Africa's oldest federation, the only destabilizing factor is not ethno-regional strife, but the country is also deeply divided along religious lines. As for South Africa, for nearly a century, even before the formal adoption of the apartheid system in mid-twentieth century, the racial discrimination policies excluded the majority of the population from every walk of life. In South Africa, the fact that black population was also divided brought about violent intra-ethnic conflicts. The elimination of both racial and ethnic conflicts was, therefore, the major focus of South African politicians in the transition to democracy in the early 1990s. In other words, similar to the Nigerian case, in South Africa, the adoption of power-sharing arrangements was used in order to manage the diversity-related problems including racial conflicts along with ethnic tensions.

¹³ The federal experience of Comoros, a small country in the east coast of Africa which is composed of four islands is not a much-discussed topic in the federalism literature. The first federal constitution of this country, having a population of below one million, was the 1978 Constitution which was then replaced by the constitutions of 1992 and 2001. For a detailed analysis of Comoros's federal system, see; Mohadji, F.B. (2005). Comoros. *Handbook of Federal Countries*. (pp. 121-134). Eds. Anne L. Griffiths and Karl Nerenberg. Montreal: McGill-Queen's University Press.

In these countries, as in the case of most of the heterogeneous countries, the problems arise from the continuous tensions and conflicts among different segments of society. Starting from the question if a particular form of government as federalism and necessary institutional bodies can act as meaningful devices to manage conflicts, the study question whether:

A specific form of government, or in our case, federalism, federal institutions and (federal) constitutional provisions can serve as necessary instruments to contain intra-group as well as inter-group conflicts and thus, contribute to maintain diversity in particular countries.

Within the context of this study, the above-question will be answered by asking two additional questions:

In the process to provide diversity through conflict management mechanisms what role constitutional and institutional devices of federalism can play?

How did -and still do- conflict management strategies related to federal principles serve to maintain the desired goals in our case studies?

SIGNIFICANCE OF THE STUDY

As Simeon puts it, “there is a long standing debate about the most effective and morally justifiable ways to manage ethno-cultural differences” (2009: 244). In an environment where Africa’s multi-ethnic countries are struggling to find a remedy to accommodate diversity and manage conflicts by an increase in regional autonomy - one of the main characteristics of the federal idea- an analysis of Africa’s two federations may contribute to the production of the literature on African federalism and conflict management. Here, it should be emphasized that we take conflict management as a constant process of negotiation and renegotiation for both of our cases. As pointed out, among all these attributed benefits of federalism as enhancing democracy, improving economic efficiency or eliminating conflicts, the focus of the study will be federalism’s capacity to challenge diversity-related problems and thus, to provide national and political integrity by applying federal principles. In other words, the study will question if the increasing political, administrative and fiscal autonomy of federal states will contribute to maintain diversity while

accommodating conflicts in our case studies. While examining if federalism can really fulfill its attributed merits including conflict management and accommodate diversity in multi-ethnic countries of Africa, the application of federalism in Nigerian and South African context in which they operate is assumed to provide us important insights. It should also be noted that in doing this, the inclusion of as many different groups as possible, if not all, in the decision-making processes of both the central government and regional governments is very important.

METHODOLOGY

Every scientific inquiry begins with the question of how to study the relevant subject under scrutiny. In this manner, the author assumes that the primacy of methodology/epistemology over ontology in framing our knowledge production is well acknowledged within the academia. Within the context of the study, the author used several secondary resources including books, articles, book chapters, journals, newspapers, survey results, internet sources and other relevant materials. These secondary resources are mostly qualitative and include both the theoretical writings on federalism and the related literature on Nigerian and South African federalism. The study also includes quantitative sources which provide empirical data. However, all these theoretical and even empirical sources of information could be shaped by the personal ideas and even by perceptions of the authors. Here, it should be emphasized that this is not a problem peculiar to our case but all social science disciplines suffer from the same methodological-epistemological dead-end; the difficulty or simply the impossibility of finding the absolute truth.

In addition to the relevant literature, the details about the characteristics of Nigerian and South African federalism were analyzed by reviewing the original primary sources like the interim and final constitutions, the legislation and official government reports as well as several reports of international organizations and the addresses of policy-makers in both countries. As similar to that of the theoretical part, these primary data is both qualitative and quantitative. However, as will be elaborated in the following chapter, the legal and formal analysis of federalism does not always provide us a complete understanding of the structure of federalism

applied in the related countries. In some cases, the federal states have substantial competencies that are specified in the constitution; however, those rights might be only on paper or could be applied in a limited manner. In order to indicate a likely difference between theory and practice in our two cases, the constitutional and/or formal rights that are granted to the federal states will be analyzed by also focusing on the practice. Therefore, due emphasis is given to the socio-economic, cultural, political and historical processes in each case which affected the adoption of federalism.

Here, it should be also pointed out that the independent variable of this study is the adoption and/or the application of federal principles while the dependent variable is the conflict management. In order to determine how the independent variable (federalism) have an impact on the dependent variable (conflict management), the study will analyze the role of various other factors explaining this causal process. The factors which are mostly related to the socio-economic, cultural, political and historical contexts of Nigeria and South Africa will be evaluated in detail within the first chapter of each case. Here, it should also be noted that the study will examine the relationship between the applications of federal arrangements and conflict management through a comparative analysis. By offering such a comparative study, we assume that differences as well as similarities in federalism's conflict management capacity in each case will provide us a better and a broader understanding on the link between our dependent and independent variables.

MAIN ARGUMENT

In the light of the introduction provided under earlier sections, it can be argued that federalism is among the many institutional arrangements designed to accommodate diversity and eliminate conflicts especially in divided societies. Moreover, rather than any centralized government system, the application of decentralized forms of government can contribute to the management of conflicts in multi-ethnic and deeply divided societies. The same argument can be applied to the African countries including our case studies. It is not because federal forms of government have a perfect record in Africa but instead, federal applications which

are still in progress in these African countries suit better to the African context. However, in order to provide the attributed benefits, the theory and practice of federal principles should be in line. The main underlying reasons behind the choice of Nigerian and South African federalism as case studies depend both on the similarity and diversity in the applications of federal power-sharing arrangements in those two countries. These factors can be listed as follows:

Both Nigeria and South Africa suffered from the ethnic, regional, religious, and racial tensions which sometimes overlap and transform(ed) into violent conflicts that divided these countries for long years. Therefore, the adoption of federalism in both countries is a conscious élite choice coming from many different ethnic or political groups in society, to bring an end to these long-lasting cleavages. Moreover, both in South Africa and Nigeria, the impact of international (f)actors also played a role in the transformation from a centralized government structure to a more decentralized one. These (f)actors will be evaluated in the following chapters in more detail, however, here, it is suffice to say that in South Africa, two interrelated developments, the end of apartheid and the opting of a devolved form of government provided South Africa a necessary means to attain external recognition and to terminate international isolation.

Thereby, while trying to analyze if federalism is a viable option for managing Nigeria's and South Africa's diversity, one should also consider that the adoption of federalism is not solely a political choice but rather, a collection of the political, socio-economic, cultural and historical factors inherent in those states in addition to particular international (f)actors.

In both of our cases, the embracing of federal principles was used as a mechanism of political bargain to cease conflicts. However, although having opposite constitution-making processes and concurrent negotiations among different ethno-regional, religious and racial groups, both the government systems of Nigeria and South Africa, then, turned into highly centralized forms.

These multi-ethnic countries also differ in the structure of their federal exercises. Therefore, both Nigeria and South Africa have the potential to present us diverging findings but given the methodological dilemma of social sciences and

different readings of the same phenomena by different experts, the possible outcomes for each case will not provide exact hypotheses like;

- Federalism has been perfectly successful.
- Federalism has been indisputably unsuccessful.

This is compounded by the fact that –another major argument of the dissertation- conflicts cannot always be fully resolved but can only be managed particularly with regard to their continuing process. However, it is found that South African case has been more successful in managing conflicts than Nigeria for various reasons which will be explained in the following chapters devoted to cases. Therefore, we arrive at the conclusion that the study will provide us major arguments like:

- Federalism may be considered as being relatively successful; however, the system requires radical modifications.
- Federalism has been successful, but it could be better off with slight changes within the system.
- Federalism has been unsuccessful; however, the trend could be reversed by making some radical changes in the governmental system.
- Federalism has been unsuccessful and therefore, should be replaced with other types of political organization or simply with another type of decentralized form of government.

STRUCTURE

The study is divided into five chapters. The first chapter conceptualizes federalism and provides a theoretical understanding of the federal idea. It will first focus on the definition of federalism as a particular type of decentralized political organization and then present the essential characteristics of a federal system by analyzing the ideas of different political scientists. After conceptual clarification, this chapter will analyze how diverging explanations students of federalism offer on the origins of federalism. In this chapter, the nature of African federalism along with the federal experiences of African countries will be shortly evaluated by an historical perspective. This part will also analyze the relevance of federalism as a governmental

system for African countries. Before proceeding to our cases, the study will then present a brief analysis about federalism debates in Africa while at the same time, elaborating the main theses of both the adherents and critics of African federalism. The last part of the chapter will analyze the link between federal forms of governance and conflict management, again, by focusing on the main arguments on the field.

Second and third chapters deal with South African case. The former discusses the nature of South African federalism and begin with an introduction of South African politics as well as an historical analysis of the emergence of federalism in the country. The chapter proceeds with the sources of ethno-racial conflicts in South African society along with the legacy of apartheid era. A proper analysis of South African conflicts is important in order to highlight the ability of federal arrangements to diffuse conflicts. The last part of the chapter will examine the constitution-making process in the country which included an all-encompassing strategy and the major (f)actors contributed to this process. This process will be elaborated within the following third chapter which will analyze the capacity of federalism to manage diversity and accommodate conflicts in South Africa with a special focus on the constitutional-negotiation process. The federal demands of various ethnic groups and concessions given to these groups are the bulk of this chapter. The chapter will conclude that federal promises have been effective in eliminating or reducing existing conflicts within different groups. By presenting the shortcomings of federalism in South Africa and main critiques on its application, it will also be argued that the remarkable transition from apartheid rule to democracy was mostly made possible by the adoption of federal provisions.

Fourth and fifth chapters follow a similar pattern with South African chapters. The fifth chapter investigates the origins of Nigeria's federalism by considering the main characteristics of federalism in the country. The rest of the chapter will be evaluated in a similar design with that of the second chapter and examine the origins of Nigerian federalism. It proceeds with an analysis of the major sources of ethno-regional and ethno-religious conflicts prevalent in Nigerian society. This section is important in elaborating the capacity of federalism to diffuse conflicts. However, unlike the South African case, the constitution-making process(es) in Nigeria will not

be a major concern since the latest 1999 Constitution like the earlier post-independence constitutions of 1963, 1979 and 1989 was prepared via a group of political élite rather than through a broad-based dialogue between different groups. The fifth chapter proceeds to examine the conflict management capacity of Nigerian federalism by focusing on the major steps that Nigerian civilian and military governments have taken in order to accommodate diversity and manage conflicts in the country. The chapter is divided further to analyze these main strategies including the increase in the number of (federal) states, Federal Character Principle (FCP) and revenue allocation system. After providing a critical analysis of Nigerian federalism, the chapter will conclude that in spite of many efforts of civilian and military leaders, Nigerian federalism could not succeed in accommodating much of the conflicts as South African federalism could. This does not necessarily mean that Nigerian federalism has completely failed in that regard, but instead, it means that the application of federal principles which would contribute to the conflict management is still problematic and thus, requires radical revisions.

The conclusion part will present the major findings of the study by focusing on the similarities and differences in the conflict-management capacity of federalism in each country. The major purpose of a comparative analysis of Nigerian and South African federalism is to contribute to the discussions on the proper government system for the African state¹⁴ in the context where a growing number of African scholars and politicians are looking for a “silver bullet” for many of the problems that they have been experiencing since their independence. It is also important to examine the distinct applications of federalism in different African countries while trying to evaluate the success of federalism in conflict management in those countries.

¹⁴ Here, it should be noted that “the African state” is used to refer to the states in sub-Saharan Africa.

CHAPTER ONE

THE CONCEPTUALIZATION OF FEDERALISM AND CONFLICT MANAGEMENT

1.1. THE FEDERAL IDEA

Federalism is defined as a process (Ibrahim, 2003: 117) both as a structure and process (Elazar, 1985: 22, Kincaid, 2005: 8-9), or both as a process and strategy (Burgess, 1991: 7). Dosenrode further distinguishes between federalism as a theory and as a normative approach. In his analysis, the former connotes the origins, organizations and functions of federations while the latter is about the underlying reasons behind the opting of a federal system (Dosenrode, 2007: 3). Several political scientists define federalism as a contractual relationship, whether a covenant or compact, depending on the constitutionally recognized division of authority. Elazar, one of the most influential students of federalism notes that the term “federal” is derived from the Latin word *foedus* meaning covenant which establishes a partnership of special kind of sharing among different levels of government. Elazar evaluates federalism as a type of political organization which preserves the political integrity of participants (1976 and 1991). Similar to Elazar, Kincaid also considers federalism as a covenantal relationship where the partners retain their integrity while creating a new entity (2005: 8). Taking federalism as a compact, Dikshit focuses on its constitutional character which is explored in the following paragraphs in more detail (1975: 1). This covenantal character of federalism explains why the authority of each level is derived from a legal framework like a constitution or convention instead of from another government (McGarry and O’Leary, 2005: 1).

In his seminal work, *Exploring Federalism*, Elazar defines federalism as a system of a combination of *self-rule* and *shared rule* (1991: 5). In a later work, he also notes that “federalism should be understood both in its narrower sense as intergovernmental relations and in its larger sense as the combination of *self-rule* and *shared rule* through constitutionalized power sharing in a noncentralized basis” (1993: 190). Federalism, therefore, combines the elements of shared-rule and self-rule (Blindenbacher and Watts, 2003: 9; Watts, 1996: 6). This simply means that in a

federal system, different levels of government enjoy separate competencies but on the other hand, they have concurrent powers. Many federal countries use the term “states” in order to refer to the constituent governments; namely, the USA, Venezuela, Mexico, Brazil, Australia, India, Malaysia, Nigeria and Ethiopia whereas other federal countries adopt different or local usages. For example; Argentina, Pakistan, Canada and South Africa use “provinces”, Belgium uses “regions”, Switzerland use “cantons”, Nepal uses “anchal”, Spain uses “*comunidades autónomas*” (autonomous communities), United Arab Emirates (UAE) uses “emirates” and Austria and Germany use “Länder.”¹⁵

1.1.1. Main Features of Federalism

Federalism is “a specific form of fragmentation of political power” (Beramendi, 2007, 753) where there exist at least two levels of government; the federal state and the “sub-units.”¹⁶ Students of federalism offer different definitions to decide whether a political type of organization is federal, however, the literature shows consensus on using some of the central features of federalism. That is to say that, there are some minimum characteristics which determine the federal character of a particular system. Territoriality or in other words, territorial definition of national governments of a federal system is perceived by many scholars as one of the

¹⁵ All of these concepts refer to the constituent units of a federation or in other words, “subnational governments.” Within the context of this study, the concepts of “constituent units/governments” and “(federal/regional/provincial) states” will be used interchangeably. It should also be noted that the data related to different usages of constituent units were collected from the constitutions of each government. Moreover, the decision to take which country as federal have been done by also regarding their constitutions (depending on which country defines itself as federal). However, some countries including India, Spain and South Africa, do not officially define themselves as federal. Therefore, in the choice to determine federal countries, the relevant literature, the list of federal countries in the website of the prominent international organization, Forum of Federations and the list of countries in the authoritative book, *Handbook of Federal Countries* were also taken into consideration.

¹⁶ As Norman points out in his *Negotiating Nationalism*, the term “sub-unit” imply a hierarchy, that is, the superiority of the federal government against regional states even though each level of government is sovereign in its own jurisdiction (Norman, 2005: 77). Moreover, the status of two sources of political power which are independent from each other is mostly stated in the constitutions of each federal system (Duchacek, 1985: 42). For the same reasons, within the context of the study, the use of the concepts of “sub-unit” or “sub-(national) government” will not avoided except for direct quotations. In a federal polity, there are certain areas where the central government has the highest authority and where the constituent units are autonomous to make decisions, however, a federal system should be considered as a particular type of political organization of co-equals at least in the theoretical level.

most fundamental features of federalism (Dikshit, 1975; Dosenrode 2007; Duchacek, 1985; Feeley and Rubin, 2008; Rubin, 1997). This geographical or territorial distribution of power (McBeath and Helms, 1983: 23) is so significant that a society is described as federal when different groups within the population are grouped territorially (Livingston, 1952: 85).

The territorial dimension enables the drawing of the boundaries of federal states in accord with regionally concentrated minorities so that they can make certain decisions related to their own society where they form the majority under the official boundaries (Kymlicka, 1995: 27-28). However, as will be elaborated in analyzing our cases, the problem emerges when differences, be they, historical, racial, political, cultural, ethnic, religious, or linguistic do not correspond with the territorially defined boundaries. Moreover, as is noted by Duchacek, some groups which are separated by diverging cleavages might not have any territorial dimension except the case of ethno-federal systems where the boundaries of federal states are largely identical with the composition of ethnic groups (1985: 42-43).

Apart from territoriality, the most essential feature of a federal polity is the separation of powers between the center and the constituent units where the latter hold some certain areas of autonomy against the former. Therefore, in all of the definitions of federalism, this division of power is considered as essential. The distribution of authority is a very indispensable part of any federal system that L. Diamond defines federalism as “a means for institutionalizing local autonomy” (1999: 150). Moreover, the distribution of power between regional governments and the central government in a federal system provides that both the general and constituent governments have a say in the decision-making and executing processes (Elazar, 1976: 12). In a federal system, neither the federal government nor the constituent units are subordinate to each other and as will be discussed, they derive their powers from the constitution rather than from another level of government (Norman, 2006: 77-78). In most federal systems, the central government retains its authority in issues related to defense and foreign policy and the federal states are autonomous in certain cultural areas such as education, health and law and order whereas taxing power is generally divided between these two levels of government -

even though the federal states may lack adequate fiscal autonomy¹⁷ which makes them to be highly dependent on the funding supplied by the central government (McKay, 2009: 64; Rubin, 1997: 1033). However, both regional governments and the central government should not be subordinate to the other levels of government in their own prescribed space (Wheare, 1946: 35).

The above-discussed features of federalism do not necessarily imply that the rights attributed to federal states are the same in each and every federal system. This explains why there is not a universal pattern regarding the rights and powers that the component units hold in any federal polity. As is noted by Field, the allocation of powers may differ significantly across different federal systems which may have divergent governmental structures (1993: 448-449). Furthermore, although the existence of at least two levels of government is an essential feature of federalism, the sharing of authority between these different levels is problematic in nature. Beramendi thus holds that: “Granting too much power to subnational units might jeopardize the former, whereas having too strong a central government might jeopardize the other” (2007: 754-755). However, the powers of federal units must not be in a very low basis in order to speak of a true federal system. This simply means that there should be a delicate balance between the powers of the central government and state governments.¹⁸ The fact that both Nigerian and South African federalism is highly centralized is therefore, subject to high criticism both from observers inside and outside and from state representatives. When considering the difficulty to find a

¹⁷ Fiscal federalism refers to the mechanisms how expenditures and revenues are allocated between different levels of government. Fiscal autonomy of states, thus, simply means that the federal states have a certain degree of autonomy on the control and management of their revenues.

¹⁸ The issue of symmetry-asymmetry in provincial-federal relations is also important in the conduct of inter-governmental relations of a federation. In each federation, it is assumed that the relations between federal government and state governments are symmetrical in nature. That refers to the equality of the constituent units under constitution or in national public policy. Nevertheless, there are many examples of asymmetrical federalism or federations obtaining a combination of asymmetric and symmetric features. In an asymmetrical federalism, some groups or states receive differential treatment from the central government. Here, asymmetry also means that some of federating units have more responsibility than others not only different competencies (Bolaji, 2009: 117; J. Smith, 2005: 1-2). This means that federations can be symmetric or asymmetric. There are varieties of asymmetrical arrangements both in central and federal systems of government. Perhaps, the most well-known exemplar of asymmetrical federalism is Canadian federalism giving special rights to the French-speaking Quebec. Apart from that of Canadian, many other constitutions including the Swiss, Malaysian, and Spanish constitutions grant asymmetry to specific parts of their societies (Bolaji, 2009: 116). However, asymmetrical arrangements may increase the discontent among the constituent units fearing that the principle of equality was not respected (Bolaji, 2009: 117) while some groups are privileged and advantaged against others. This, again, is beyond the scope of the study.

balance between different governing levels in terms of their scope of powers, the need to specify these rights and powers in a written constitution might be better understood.

Scholars agree that the rights or the autonomy of each level in any federal system -especially of the component units- must be constitutionally guaranteed in a federal polity (Burgess, 2012; Cameron and Falleti, 2005; Lenaerts, 1990; Rubin, 1997: 1040). As Wheare, one of the major constitutionalists, puts it "... the federal principle requires the supremacy of the constitution" (1946: 56) because written constitutional arrangements specify the rights attributed to different levels of government. Since the responsibilities and powers of these levels in a federal arrangement are derived from the constitution, J. Smith defines federalism as a legal construct (2004: 14). Constitutions also guarantee the autonomy of constituent governments in certain areas (Blindenbacher and Watts, 2003; Dikshit, 1971: 99; Watts, 1998: 124). This constitutional characteristic of federalism is also indispensable in the sense that such a legal, formal and constitutional framework enables full realization of both economic and political aspects of a federal system and provides the effective operation of any federal system since the supremacy of constitution ensure the governmental authority of different levels (Elazar, 1975 and 1982; L. Diamond, 1999; Norman, 2005; Tarlton, 1965; Watts, 1996: 91; 1998: 124). Similarly, Beramendi explains the importance of such a legal analysis of federalism by arguing that it is the constitution or the judicial review system that guarantee the autonomy of different levels (2007: 754). The constitutions which specify the allocation of powers to different levels of government are thus seen as a way to secure political stability (Hueglin and Fenna, 43).

It is also important that in most cases, the competencies specified in the constitution cannot be unilaterally altered by the central government since such changes require the consent of all governmental tiers (Blindenbacher and Watts, 2003: 10; Dikshit, 1975: 1; McGarry and O'Leary, 2005: 1). In a federal regime, the number of federal states can also alter through constitutional amendments. However, this legal framework also lacks a common model that is applied in every federal regime. For example, Ethiopia is one of the few federal countries that recognize the right to secession where the federal states can enact their own constitutions while

Nigeria has only one constitution for the thirty-six federal states.¹⁹ Therefore, the constitutional rights of federal states and the amendments in the constitution have vital importance in analyzing any federal form of government.

In addition to the principals of territoriality, separation of powers and constitutionalism, the creation of separate executive, legislative and judicial branches of federal governments is considered as another definite characteristic of a federal system. Defining federalism as a constitutional political system, Cameron and Falleti place emphasis on the rights of the regional governments to have their own constitutional institutions as well as their own executive, legislative and judiciary institutions (2005: 246). A judicial review by a supreme court is considered as an ark of the “federal covenant” (Dikshit, 1975: 1) or as an essential means to interpret and apply the constitution (Blindenbacher and Watts, 2003; 10). However, neither the judicial review system nor a separate judicial court is evaluated by some students as general criterion of federalism but is defined simply as an American specialty (Duchacek, 1985: 44-45). Lijphart also evaluates the existence of a supreme court having a judicial review system together with a bicameral legislature and a written constitution as a secondary characteristics of a federal system which is the guarantor of federalism rather than the component (1999: 187-188). However, in most federations, a supreme court acts as an umpire in the conflicts between different levels of government (McGarry and O’Leary, 2005: 1).

It is important to note that the legal analysis of federalism does not always provide us a complete understanding of the structure of federalism applied in the related country. In some cases, the federal states have substantial rights that are specified in the constitution; however, those rights are only on paper. In other cases, the country is federal in a formal and constitutional sense but it is highly centralized in practice which is contradictory to the very essence of federalism (Blakeney, 1994: 8; Elazar, 1985: 22).²⁰ Under such a circumstance, the constitutional rights can only

¹⁹ See The 1994 Constitution of the Federal Democratic Republic of Ethiopia. Sections 39 and 51. http://www.africa.upenn.edu/Hornet/Ethiopian_Constitution.html, (25 January 2013) and Chapter 2 of the 1999 Constitution of the Federal Republic of Nigeria: <http://www.nigeria-law.org/ConstitutionOfTheFederalRepublicOfNigeria.htm>, (20 January 2003).

²⁰ Riker evaluates this phenomenon through the “two extremes of federalism: In “the centralized federalism”, the federal government takes decisions without consulting the federal states even for issues directly related to the states’ own affairs. The other extreme in Riker’s classification is the “peripheralized federalism”, relatively opposite of the first extreme: As the concept indicates, here, at

be myth without true application of federal principles. In other words, while institutional arrangements matter, they are not the only factor shaping the evolution of federalism in a particular country (Simeon, 1998: 3). Taking federalism as a sociological phenomenon, Livingston, therefore, criticizes such a strict legal and formal analysis of federalism and holds that the essence of federalism is more related to the historical, socio-economic, cultural and political as well as other determinants of any society rather than the institutional and constitutional structure of federalism. For example, despite its legal/constitutional framework; South Africa worked federally- it still does- (1952: 81-84, 92) and although Nigeria is a constitutionally federal state, there are many problems in the application of Nigerian federalism. Experts accept that there are several variables and challenges which influence the real implementation of constitutional texts. By considering the difference in the constitutional framework and practice, this study will therefore try to analyze how the constitutional rights given to federal states are performed in our case studies, that is, the actual workings of the federal system.

Scholars generally unite in their analysis of federalism's most fundamental characteristics; however, there exists no universal list of the functions or jurisdiction of each level of government in a federal system. In other words, like all systems, there is no ideal-typical or "pure" federal system or federal institutions (Frey and Stutzer, 2004: 8; Keller, 2007: 4,9; Kincaid, 2005: 9) because the concept of "ideal" may vary in each country related to the political experiences of particular countries (Inegbedion and Omoregie, 2006: 70). As Tamuno points out, every federal system is unique in its historical development (1970: 563). Furthermore, as Colino notes, like all institutions, federal institutions evolve through time at different paces (2010: 16). As in all political systems, the constitutions as well the competences of different levels of government differ in federal systems; even the number of federal states does not stay constant. Therefore, scholars acknowledge the fact that there is no ideal federal form but only several variations of it while no federal systems are identical (Elazar, 1993; Watts, 2002). This explains why every federation is inherently *sui*

least some of the decisions related to the federal government are formally controlled by constituent units (1979: 104-105). Finding a balance between centralization and decentralization is also one of the major difficulties of federalism (Kymlicka, 1995: 28).

generis. As is seen, it is prevalent among the students of federalism that no type of federalism is exactly the same with each other. Tamuno, therefore, points out the fallacy of comparing the success of Nigerian federalism with two of the oldest and most successful federations, namely, the United States and Switzerland (1970: 563). Although Tamuno is writing about the special case of Nigeria, his observation can be applied to each and every type of federalism. Therefore, the analysts of federalism should consider the peculiar and special characteristics of each federal arrangement in its own context.

1.1.2. Federalism as a Specific Form of Government: A Terminological Analysis

Federalism differs from other political systems such as unitary states or decentralized regimes in various ways. Federalism as a special form of political government tends to be used simply as being synonymous with political decentralization. However, it is more than a degree of decentralization since a federal regime is already decentralized in essence. As McBeath and Helms notes, the literature distinguishes between two types of decentralization, namely, devolution and deconcentration (McBeath and Helms, 1983: 21). The writers evaluate “devolution” as the political type of decentralization which, in their analysis, is equivalent to “home rule.” Devolution involves “local autonomy in making a wide range of decisions” and the legislative power of states while deconcentration, the administrative type of decentralization involves “transfers of program operation and revenue to branch offices of the national government or to those in regions, states, or local areas.” In unitary states, deconcentration is used as a means to find a “middle tier” in order to conduct complex national policies or to facilitate economic efficiency although it is the national government which initiates the necessary reforms. This does not mean that two processes are necessarily discrete in practice. Non-federal countries also have attempted to devolve some of their self-government capabilities to regional administrative units. To McBeath and Helms, “the main difference between two types of decentralization is that in deconcentration, the national government surrenders its dominance, but not its power” (McBeath and Helms, 1983: 34, 37-41).

In a federal system, the rights of the federal states are not temporary as contrast to decentralized systems. Moreover, the federal state cannot unilaterally eliminate those rights and the authority of the states (Rubin, 1997: 1013). Although both decentralization and federalism strengthens the regional levels of government, only the latter constitutionally guarantees self-government (Erk and Swenden, 2010: 3). However, the fact that federalism leads to decentralization does not mean that decentralization absolutely leads to federalism (Feeley and Rubin, 2008: 22). The degree of decentralization in a federal regime can alter through time and through constitutional amendments. Here, Osaghae's assumption that "federalism is a highly distinct form of decentralization" proves itself right. He argues that it is the term of noncentralization, -that is to say that, the issues regarding the federal states cannot be centralized in a unilateral basis- that constitutes the key to distinguish federal regimes from nonfederal ones (Osaghae, 1990: 83).

Beramendi explains the difference of federalism from other types of political organizations in terms of the relative autonomy of regional states, their holding of resources and their constitutional status which enables them bargaining power (Beramendi, 2007, 753-754). As is noted by Feeley and Rubin, "the term federal is generally used, in legal and political science scholarship, as a contrast to a unitary or fully-centralized or integrated nation-state" (Feeley and Rubin, 2008: 4) as the writers also follow such a usage in their own book. A certain degree of decentralization can also be codified in the constitution of a unitary state but it is generally a managerial strategy, for example, in maintaining efficient management (Feeley and Rubin, 2008: 21; Rubin, 1997: 1061). Decentralization, here, is usually analyzed as a temporary grant of the central government not a natural right of regional states as in the federal regimes. In a unitary state, the central government has the power both to recentralize and decentralize while in a federal regime where the federal states have definitive rights against the central government, decentralization is mandatory and guaranteed legally. Moreover, the term decentralization refers to the existence of a central government (Elazar, 1976: 13; Osaghae, 1990: 83; Rubin, 1997: 1061) since every federal regime is decentralized in various degrees.

As Dosenrode notes, in unitary systems, the government holds authority in all policy areas, that is, the decision-making process is not shared between federal government and the component units (Dosenrode, 2007: 7). The particular way of organizing vertical hierarchy also makes federalism to differ from various types of political organizations. For example, in unitary states, provincial officials lack constitutional status which provides them to emerge as effective actors in a bargaining process with the central government (Beramendi, 2007, 753-754). In unitary states, the constituent units derive their authority from the central government while in a confederation, the central institutions derive their authority from constituent units. However, in a federal system, different levels of government derive their authority directly from the constitution not from another level of government (Blindenbacher and Watts, 2003: 10).

Elazar argues that federalism is a genus of political organization including different species (1991: 6-7; 1993: 190) as federation, confederation, federacy and associated statehood as well as quasi-federal arrangements such as: unions, leagues, condominiums, constitutional regionalization and constitutional home rule (1993: 190-191). Elazar points out that the concept of federation is mostly used as interchangeably with federalism in the political science literature. However, a federation is only a species of federalism which is defined by Elazar as: “a common general government in which to form a polity, constituent units both govern themselves and share a common constitutional government of the whole” (1993: 190). Confederation is a looser form of decentralization where the constituent units retain most of their sovereign powers. The units control the central government which “must work through them to reach the citizenry.” Some confederations even permit secession from the confederation (Elazar, 1993: 190).

Duchacek holds that in loose confederations, consociationalism is the dominant decisional mode (1985: 35). Here, it should also be noted that the term consociationalism is used interchangeably with power-sharing. Or as Spears notes, consociationalism is accepted as a form of power-sharing (2000: 107) while federalism can also be an element of power-sharing. Moreover, federalism is also about sharing power where the central government and state governments have certain competencies while at the same time, acquiring concurrent powers. Any

federal system may carry some of the components of power-sharing -though not necessarily all of them- or exhibit a combination of principles of federalism and power-sharing.²¹ Lijphart, one of the major consociationalists, maintains that there are four basic principles of a consociational democracy; a government of grand coalition which includes representative coalition of significant groups within society; group autonomy through a federal or a decentralized system; proportionality and minority veto power (Lijphart, 1977 cited in Lijphart, 1998: 145-146). Lijphart also holds that all of these principles were included in the 1994 interim constitution (IC) of South Africa which should be regarded as a perfectly consociational constitution (1998: 146) yet the latter principle, minority veto is missing in the 1996 constitution which emphasizes individual rights rather than minority or community rights. Moreover, the grand coalition was only tried in the transition process and ended following the withdrawal of the National Party (NP) in 1996.²² For this reason, it would be more appropriate to say that South African 1996 Constitution carry some of the features of power-sharing as any federal system may contain. On the other hand, Nigerian consociationalism is based on the political representation of minorities and assertion of group rights (Bach, 2004). However, it also lacks the consociational principle of proportionality and minority veto power as well as a grand coalition of significant Nigerian groups. The federal and consociational practices in South Africa and Nigeria will be analyzed in detail in the following chapters. Nevertheless, before analyzing the capacity of federalism in accommodating conflicts, a general overview of federal practices in Africa is deemed to be necessary.

1.2. AFRICAN FEDERALISM

Some experts focus on the federal or confederal African experiences in the pre-colonial era like the modern Ashanti Empire/Confederation (1701-1896) and

²¹ For a brief analysis of the differences between the federal and consociational regimes, see: Elazar, D.J. (1985). Federalism and Consociational Regimes. *Publius*, 15(2): 17-34. According to Elazar, consociationalism is one of the species of federalism. He further holds that federal systems are more rigid because frameworks of governmental organization are clearly entrenched in federal constitutions while consociational arrangements are more informal and are not necessarily guaranteed under a constitutional framework (1985: 17,19).

²² Lijphart also admits that the 1996 Constitution “moved away from strict power-sharing” (1998: 144).

dynastic Egypt (3200 BCE-332 BCE) while taking federalism as an indigenous idea of the African continent (Jordan, 2009) even though Africa’s experience with federalism is relatively new when compared with the old federations of the Western countries as the Unites States, Switzerland, Canada and Australia. However, federalism in Africa is generally considered as a political idea imported to the continent by colonial administrations, mostly by the British and then the French (Burgess, 2012: 7) despite the fact that federal experiences were already existent before the arrival of colonizers. Starting from the mid-1980s, decentralization has been transforming the structure of governance in Africa and many African countries started to adopt federal applications (Brosio, 2000: 1).

Nevertheless, as the students of federalism are highly divided in their arguments on fedrealism, the relevance of this type of political organization in introducing certain outcomes is also a matter of dispute among the students as well as the politicians of Africa. Before proceeding to these arguments, we first have to emphasize that there are many African countries which adopt(ed) decentralized forms of government or consider embracing decentralization as a way to manage diversity. Even though the application of such types of government has mostly failed in African countries, this did not stop the recent interest in federalism among the statesmen and the academic community across the continent. McHenry, Jr lists the most commonly identified federal countries in Africa in a table as following:

Table 1: Post-Independence Federal Systems in Africa

Federal System	Longevity of Federal System
Cameroon	1962-1972
Congo (Zaire)	1960-1965
Ethiopia	1952-1962, since November 1991
Kenya	1963-1965
Nigeria	1960-present
Senegal/Soudan	July-August 1960
South Africa	1994-present
Sudan	1972-1983
Tanzania	1964-present
Uganda	1962-1966

Source: McHenry, Jr., 1997.

As indicated from the above table, many leaders of African nations considered the application of federal systems and performed some federal

arrangements within their countries especially during the first years of their independence. However, not long after, the idea of federalism was proved unsuccessful in solving African problems, especially due to the poor record of federalism in the continent. This failure of federalism is mostly related to the unwillingness of the newly-emerging ruling class to accept the limits on their power through federal constitutions (Ibrahim, 2003: 117). Moreover, African leaders, who were seeking for the establishment of nation-states, were suspicious of the idea of federalism on the grounds that a federal system of government could preclude national unity by reinforcing tribalism and encouraging secessionist claims. These leaders also viewed federal arrangements as divide and rule strategies of colonial powers (Dersso, 2008: 10). During this time, in addition to the lack of political commitment to federalism, the unitary state was considered necessary to maintain national integrity, to unite diverse societies and to balance national resources; therefore, even decentralization within unitary states appeared as a great political risk. It is mainly this preference of the incumbent African leaders in the dawn of their independence which explains the forging of unitary states as a general strategy in African countries. However, the failure of unitary governments and the nation formation revived federalism in various countries of Africa (Ibrahim 2003: 117; Kimenyi, 1998: 44-49; Kimenyi, 2002: 10; (Mengesha, 2008: 157-179; Mengisteab, 1997: 120; (Rothchild, 1966: 275-293). Furthermore, despite the poor record of federalism in Africa, the “perceived utility of the system” preserves its credibility in many countries on the continent (Ojo, 2009: 387).

It is a prevalent assumption among some scholars that the establishment of federal or devolved forms of government has several advantages for the African state. According to this view, federalism is the best system of government that fits to the political reality of Africa because of the need to constrain limitless political power, accommodate diversity, protect some groups from oppression, allow these groups to preserve their identity and thus, contribute to protect minority rights, deal with national diversity, resolve conflicts and provide the desired economic benefits (Ibrahim, 2003: 118-119; Kimenyi, 1998: 59-60; Kimenyi, 2002: 3-37; Kymlicka, 1995: 28; Thomas-Wooley and Keller, 1994: 411-427). Federalism –here, the emphasis is on nonterritorial federalism- is also assumed to have the potential to

accommodate religious differences, maintain autonomy to the territorially concentrated communities and provide an effective government service to local communities in excessively large African countries as Sudan, Ethiopia and Nigeria (Kimenyi, 1998: 43-62; Mengesha, 2008: 160). Federalism is considered to facilitate the accommodation of territorial cleavages by combining the advantages of shared rule with those of self-rule (Amoretti, 2004: 11; Bermeo, 2002: 108). One of the attributed merits of federalism is its secession-eliminating capacity by keeping divided societies together and diminishing the undesirable effects of ethnic nationalism (Congleton, 2000: 285-302). Since ethnicity²³ plays a pivotal role in every walk of life in African societies, some students of federalism specifically propose ethnic federalism as a way to reduce or eliminate ethnic conflicts. Ethiopian ethnic-based federalism is thus offered by many academics as a role model for Africa's multi-ethnic societies (Mengisteab, 1997: 129). It is also argued that African states are naturally suited for the establishment of federalism since ethnic groups associate with particular territories (Kimenyi, 1998: 45).

There are also many other academics who suspect the potential of federalism in Africa including Adamolekun and Kincaid, who noted in early 1990s that federalism could not achieve a big success in African countries except the promising example of Nigeria. However, the authors assume that the failure of federalism in African countries is not solely related to the federal idea itself but to the failure of democratic governance across the continent (1991: 173-174). Mangu holds that not only in Nigeria but also in Ethiopia together with other quasi-federal states of Africa, federalism could not be successful due to non-respect for the principles of constitutionalism, democracy and the rule of law without which federalism cannot develop (Mangu, 2010: 36).²⁴ There are also other skeptics who hold that ethnic federalism may have the opposite effect than is assumed, fuel secessionist movements and engender new conflicts (Rothchild, 1997: 56) Another argument about the inappropriateness of federalism in sub-Saharan Africa is that territorial

²³ Ghai uses the concept of ethnicity in order to refer to all of the factors distinguishing groups from one another. As he observes, when the ethnic distinctions as language or color become the basis of political identity and begin to play an important role in the political process or power, these distinctions are transformed into ethnicity (2000: 4).

²⁴ As a result of the "failure" of ethnic federalism in Ethiopia, territorial federalism is offered as an alternative to ethnic federalism (Teshome B, W. and Záhorkík, 2008).

autonomy cannot manage ethnic conflicts in the region since the structural, historical and political conditions for its success are essentially absent (Mozaffar and Scarritt, 2007: 230-253). Moreover, some other factors inherent in the African societies are assumed to inhibit the implementation of territorial autonomy such as “group morphology, territoriality, changing basis of ethnic identity and the nature of state responses to ethnopolitical mobilization.” Here, the Ethiopian experience is seen as an evidence of the lack of viability of this option in Africa (Mozaffar and Scarritt, 2007: 230-231). Osaghae lists other obstacles on the success of federalism under African circumstances as the dominance of the élites who suppress the claims of constituent units and who are unwilling to embrace the realities of ethnic nationalism. He further holds that federal systems of government which failed in Africa did not have positive effects in countries that have a federal experience; even Nigeria’s federalism was only on paper and had great troubles (2004: 162-178). However, in order to understand the success or failure of federalism in any particular country including our cases, one has to analyze its origins, that is, the underlying factors which led to the adoption of a federal system of government in that country.

1.3. THE ORIGINS OF FEDERALISM

The development federal political systems or at least the federal idea is mostly associated to the era of Greek city-states, that is the *polis* (Marc, 1979). Moreover, the American federal system (1787) is evaluated by many students of federalism as the first modern federal polity (Elazar, 1981b: 5; Verney, 2002: 35) and the term “federalism” has generally been associated with the American example, particularly because it is the US Constitution which formulated the first federal application of segmental autonomy (Ostrom, 1991: 6-7).²⁵ For a long time, the majority of the works on federalism concentrated on the characteristics on American federalism although in recent years, there has emerged a shift in this tendency. However, it is obvious that providing a history on both the particular ancient era of city-states and the development of American federalism are beyond the scope of the study. By analyzing the origins of federalism, this part of the study will focus on the

²⁵ This political principle of the US constitution was also evaluated as one of the country’s most important intellectual exports (Inman and Rubinfeld, 1997: 43).

main underlying reasons of why states adopt a federal arrangement rather than focusing on the historical origins of the federal idea. Wheare evaluates the question of “in what circumstances, is it appropriate to adopt a system of federal government” as the most difficult but at the same time, the important question to be answered (1946: 35) but the scholars provide a number of possible explanations on the origins of federalism.

Feeley and Rubin emphasize the role of political identity in embracing a federal arrangement or maintaining the existing federal regime. Here, the focus is on resolving conflicts that arise from the difference between the territorial boundaries of a nation and the political identity of residents living in this particular territory (2008: 14-38). Dikshit focuses on the role of geography in the establishment of federal systems and therefore, adopt a geographical approach to federalism. Dikshit also defines federalism as a bargain. Here, the main reason to federate is to attain some degree of regional autonomy while different political units arrive at an agreement to create a state where they retain some degree of autonomy (Dikshit, 1971: 98, 101; 1975: 1). Dikshit further argues that “the units merge only when the centripetal forces overwhelm the separatist ones, and the units see greater advantages in union than in separation” (Dikshit, 1971: 101). Contrary to the general view that federations emerge through a contract among constituent units, Ziblatt holds that federations are formed through a combination of coercion and compromise. Ziblatt further maintains that federalism is possible if “institutionalized, socially embedded, and highly infrastructural sub-units” are capable of governance. Without the existence of such relatively strong component units against the center, it is very likely that the central government may attempt to impoverish the units in order to create a unitary state (2004: 70-96).

According to Riker, one of the most notable students of federalism, two conditions, namely, the expansion condition and military condition play a key role in the bargaining process of opting federalism. The first condition links the emergence of federal systems to the desire of politicians who offer the bargain to expand their territorial control –not through military means- in order to provide protection from an external threat. In the latter condition, politicians accept the bargain and give up some of their independence in order to establish a union again to provide protection

from an external threat, be they military or diplomatic (Riker, 1975 cited in Volden, 2004: 91-92). In Riker's analysis, external threats or security concerns determine the adoption of federal arrangements. States give up some of their sovereignty in exchange for security or other concerns such as economic ones and join to a larger state with other constituting units. Stepan develops a further analysis beyond Rikerian federalism while identifying this type of federalism as *coming together federalism*, which is, US-style federalism. Although Stepan defines Riker as "the most influential political scientist who has written on federalism", he says that it is not the only type of federalism as Riker assumes (2004b: 443).

In addition to Riker's coming-together federalism, Stepan holds that there are two other formations of federalism: *holding-together federalism* and *putting-together federalism*. Stepan makes a distinction between the federations whose purpose is to "come together" versus those whose purpose is to "hold together." By evaluating Riker's idea of "federal bargain", Stepan holds that Riker's argument is powerful for classical federations where component-units decided to join a federation for the above-mentioned concerns. However, not all federations emerged from the same historical and political contexts. There are also examples of *holding-together federalism* as in the case of India, Belgium and Spain where political leaders in a unitary state agreed that dividing power constitutionally and devolving power to federating units would help to preserve their democracy and to keep the country together. As oppose to *coming-together federalism* where sovereign states voluntarily give up some of their sovereignty in order to form a federation, in *holding-together federalism*, an already existing larger territory is divided into autonomous units following the pragmatic decisions of political élites. The origins of "holding together" federations are thus, different from Riker's formulation of "coming together" federations. The third category in Stepan's analysis is *putting together federalism* where a nondemocratic centralizing power coercively put together a multinational state. As in the case of the USSR (Union of Soviet Socialist Republics) which was a "putting-together" federation, some of the constituent units may be previously independent states (Stepan, 2004a: 30-35; 2004b: 443-445).²⁶

²⁶ Bermeo adds another concept to the terminology developed by Stepan and holds that in order to perform its attributed potentials, federalism should not be imposed from outside as in the type of *forced-together federalism* of post-communist Europe which failed eventually (2002: 105-108).

The analysis of the origins of federalism in our cases is important in order to provide a better understanding of the sources of conflict and the challenges in the operation of federalism in these countries. This issue will therefore be examined in detail within the following chapters. Here, suffice it to say that following Stepan's categorization, federalism both in Nigeria and South Africa can be defined as *holding-together federalism*. In both countries, the politicians decided that adopting federal arrangements would help to hold the country together. Keller holds that Nigerian federalism has started as a *holding-together federalism* in the 1950s because the political leaders of the three dominant ethnic groups, Hausa/Fulani, Yoruba and Igbo, agreed for a federation in order to preserve the integrity of the state (2007: 8). However, as will be analyzed under the section of origins of Nigerian federalism, the roots of Nigerian federalism goes back to colonial era when the British had established separate entities and then involuntarily amalgamated these units into the territory known as Nigeria.²⁷ This initiative has both administrative and pragmatic origins. The ethnic leaders who inherited this federal legacy were left with no better option to keep this deeply divided and multi-ethnic country together. As for South Africa, the country was not a federation before gaining independence nor did the country have a strong federal tradition in the apartheid era. (Selective) federal initiatives were taken during the apartheid rule in order to satisfy the political demands of the non-whites especially the black population. Real application of federal principles was embraced in the transition period of the historical constitutional-negotiation process.

Until this part of the study, we sought to analyze the basic characteristics of federalism, its difference from other types of government and its origins. However, the major focus of this study is the potential linkage between federalism and conflict management, if there is any. The following part, therefore, will seek to analyze the basis of conflict management literature in order to serve our humble effort to unite the two separate literatures of federalism and conflict management.

²⁷ This enforcement makes Nigerian case to look like more similar to Stepan's holding-together federalism than coming-together federalism because it is not Nigerian ethnic leaders who initiated the adoption of federalism but they followed the unilateral act of the British officials.

1.4. CONFLICT MANAGEMENT LITERATURE

The field of conflict management is not fully developed but is still evolving. Scholars believe in a likely expansion in the field which is yet not highly institutionalized (Kriesberg, 2007: 473). However, there are several research centers focusing on the issue as well as various journals specialized in this literature including *Journal of Conflict Resolution*, *Conflict Management and Peace Science*, *Conflict Resolution Quarterly* and *International Journal of Conflict Management*. Within the conflict management literature, the words of “conflict” and “war” are mostly used interchangeably or the concept of “conflict” is used to refer other words implying violent connotations (Coser, 1956, cited in Kriesberg, 2007: 468). However, the conflicting sides do not always necessarily use violent means against each other in order to achieve their goals, be they political, economic or other specific objectives. In both of our cases, the related parties applied to violence against each other at least once but the conflicts were not always in a violent basis.

The word “conflict” has been employed within several disciplines; however, the concept lacks a clear meaning or an exact definition. Some of these definitions are used for specific interests whereas others attempt to be all-inclusive (Rahim, 2010: 15). For example, the following definition of conflict by Hocker and Wilmot is used to refer interpersonal conflicts in organizations but can be applied to many cases including intra-state conflicts. According to this definition, a conflict can be simply defined as “an expressed struggle between at least two interdependent parties who perceive incompatible goals, scarce resources, and interference from the other party in achieving their goals” (1985: 23, cited in Barki and Hartwick, 2001: 197). The thesis requires that by conflict management, we refer to the internal (ethnic) conflicts between different groups within South African and Nigerian societies.²⁸ Here, it should also be noted that in analyzing the cases, both intra-group and inter-group conflicts will be the focus. In addition to internal conflicts, there are also international conflicts or conflicts starting as internal but somehow gain a cross-border character and transform into international conflicts. However, as noted, our

²⁸ While ethnicity may be a problematic issue in African politics, it should be noted that all ethnic relations are not necessarily conflict-prone.

focus within the study is intra-state (ethnic) conflicts rather than conflicts having international status.

As the literature is divided in offering different definitions of conflict, it is also divided in the sense that there various usages to refer the ways of reducing or eliminating conflicts. These include “conflict mitigation”, “dispute settlement” and “conflict transformation” in order to indicate the acceptable ways of ending conflicts. The most widely-used of these concepts was “conflict resolution.” However, it was soon recognized that some conflicts could not be resolved and the term “conflict resolution”, therefore, is a misnomer (Kriesberg, 2007: 456) while the use of “conflict management” is gaining currency within the literature. As the title of the study manifests; the term “conflict management” (CM) will be used within the context of this study because we share the assumption of Lake and Rothchild that conflict management is both a continuing and an imperfect process. It is an ongoing process because of the difficulty to achieve an “end point of final resolution.” As the authors put it, “It is also an imperfect process that, no matter how well-conducted, it leaves some potential for violence in nearly all multi-ethnic polities. Ethnic conflict can be contained, but it cannot be entirely resolved” (1996: 42). This makes us to arrive at the conclusion that conflicts cannot be fully eliminated especially in multi-ethnic societies but rather, they can only be managed. The following arguments of Osaghae, further reinforces the previous ones:

...The concept of conflict management... is used here in contrast to conflict resolution. The notion of resolution implies a once-and-for-all treatment of conflicts, while management implies that conflicts cannot be disposed of in one fell swoop... while resolution suggests that conflicts can be dealt with in a rational comprehensive way, management presupposes that they are best approached from an incrementalist standpoint. Obviously, the management approach is more discerning of the dynamic nature of ethnic conflicts and conflict situations: The fact that conflicts are usually complex and that the “resolution” of one conflict could very easily result in another, that actors and issues in conflict are forever changing form and character, and that supposedly different conflicts (for example ethnic and religious or class conflicts) are linked in important ways. Moreover, the management approach presents a more continuous strategy of dealing with conflicts and the hope is that if disagreements at the level of basic competitions can be minimized, then the scope for conflicts will be reduced (Osaghae, 1996: 173).

In this study, it is also acknowledged that conflicts may undergo a cyclical process of the following stages; escalation, de-escalation and re-escalation. In other

words, the existing conflicts within a given society may be resolved to a large extent but the tensions between different groups may still continue. Moreover, many of the contemporary (internal/intra-state) conflicts cannot be resolved entirely especially when adequate confidence-building measures are not created between the conflicting groups. Therefore, the terms of “conflict management” (CM) or sometimes “conflict accommodation” is a conscious choice of usage preferred in this study. Here, we follow the definition of Irobi (2005) and use conflict management simply to mean “constructive handling of differences.” As the author notes, conflict management “is an art of designing appropriate institutions to guide inevitable conflict into peaceful channels.” It involves all efforts to “reduce, contain or regulate conflict” (Francis, 2009 cited in Adeyeri, 2012: 99)

In order to find a remedy to internal ethnic conflicts, one must identify and understand its underlying causes (Fleiner et al., 2003: 44). The sources behind conflicts can vary from economic injustice, the memories of discriminatory policies in the past, the exclusion of the recognition of minority culture, a historical conflict between the state and an ethnic minority which led fear and mistrust among the related parties (Fleiner et al., 2003: 44). These factors feed the desire of particular ethnic minorities on sub-national autonomy or further political representation at regional or local levels in addition to representation in central government. As in Nigeria and South Africa, particular groups may even resort to violence in order to realize their secessionist claims or at least self-government.

The origins of conflict differ in Nigerian and South African societies. One of the major sources of conflict in Nigeria is the desire to attain state resources and the resentment of particular ethnic groups that the Nigerian government favors some groups while excluding the others. Conflicts in Nigeria have various dimensions including the historical North-South confrontation, religious and ethnic divides and economic disparity. Moreover, some of Nigerian groups were historically hostile to each other and were unwillingly united in an artificially demarcated territory. It can be concluded that most of the conflicts in Nigeria overlap with each other and thus, carry ethno-regional and ethno-religious character.²⁹ As for South Africa, ethno-

²⁹ Here, one can question if Nigerian federalism is a truly *holding-together federalism* at all. It can also be questioned if Keller’s argument on Ethiopia -that Ethiopian federalism emerged as *holding-together federalism* but soon transformed into *putting-together federalism*- (2007: 8) can also be

racial conflicts have been a defining characteristic of South African society for at least a century. Apartheid system is one the most tragic examples of discriminatory policies which divided South Africa along racial lines. Apartheid ideology also divided the black population and created further intra-ethnic cleavages. By considering this phenomenon, the constitution-drafters added to the Preamble of the 1996 Constitution the following statement that “We, the people of South Africa, recognize the injustices of our past.” The 1996 Constitution, the first democratic constitution of South Africa was adopted as the supreme law mostly to “heal the divisions of the past and establish a society based on democratic values, social justice and fundamental human rights.”

In the light of this introduction, it is obvious that as the sources of conflicts differ; overcoming these conflicts also requires diverging mechanisms. However, there are certain strategies which are/were used in managing different conflicts. The conflict management literature focuses on various exchanges particularly on mediating, negotiating and bargaining processes between adversaries. Nevertheless, there are some necessary steps to be taken in order to achieve success in conflict-management process. Jonathan Powell,³⁰ for example, points out that above all, the commitment to sustain negotiations regardless of the existing difficulties is important (Başaran, 2013). Another significant factor that Powell focuses is that the related parties in the negotiations should not be divided because such kind of divided leadership has the potential to damage the peace process. In every negotiation process, there are some groups seeking to endanger the peace process. Therefore, all participating parties should have the feeling that they need peace. Here, the role of political leaders is important because peace could only be achieved through the efforts of determined leaders privileging peace over greed. The key in the peace-process is that no party will feel disadvantaged or defeated in the negotiations. In

applied to Nigerian case. Keller also accepts that Nigerian federalism emerged as a *holding-together federalism* when prior to independence, the leaders of dominant three ethnic groups, Hausa/Fulani, Yoruba and Igbo agreed that Nigeria would be a federation (2007: 8). However, despite many problems inherent in Nigerian federalism and critiques against its operation as well as several conflicts between different ethno-regional and ethno-religious Nigerian groups, it still is not a *putting-together federalism*. Nigerian conflicting ethnic groups no longer demand for secession and they are not forced to live in the same country. These groups do have critiques against the application of many federal principles, especially on the distribution of resources; however, they do not seek a territorially divided Nigeria.

³⁰ Powell is a former British diplomat who is accepted as an expert in conflict management due to his mediating status in various intra-state conflicts including IRA-British and ETA-Spain conflicts.

other words, in order to reach out a sustainable peace, no party shall lose or win in the negotiation process (Başaran, 2013). The currency of Powell's arguments will be analyzed especially in South African case where the constitutional negotiation process played an important part in resolving both intra-group and inter-group conflicts.

As the South African case will indicate, negotiation process includes responding the interests -at least a satisfactory ratio of them- of former enemies and providing new options and solutions such as trade-off packages or reframing issues both substantively and symbolically (Kriesberg, 2007: 461). As in the case of South African constitution-making process, there may be "pre-negotiations" about the conditions for entering into negotiations (Huntington, 1991: 160), however, the critical issue, here, is that the negotiations will not last long. If it is possible, the negotiators should determine a deadline to put an end to negotiations because the longer the process is, the harder to reach an agreement. In this process, new problems may emerge and different groups may come up with new demands while asking further concessions from other parties. Negotiations also have to be as inclusive as possible, formed of various groups representing different parts of society in order to provide mutual understanding. The latter has the capacity both to provide legitimacy to the negotiation process and to preclude the de-escalation of conflicts. Opening the way for negotiations and sustaining it is a fundamental strategy of conflict management.

Drawing lessons from South African case, it should be noted that any negotiation process is free of problems but a negotiation may be deemed successful if it has the capacity to produce long-term peace and stability within a given society. If the negotiators only focus on short-term success for their practical and pragmatic considerations, then, it is very likely that the conflicts will re-emerge. Spears notes that three groups can coexist in any conflict situation: "*moderates*, who were willing to negotiate with their adversaries; *opportunists*, who were not necessarily in favor of negotiations but ... consider them under the correct circumstances; and *extremists*, who would never negotiate" (2000: 112-113). It is important for the negotiators to provide the support of the first two groups while making the exclusion from the negotiation process less appealing and more desirable especially for the latter group.

The belief that they would be highly disadvantaged if they do not be a part of the negotiations would make the extremists more willing to collaborate.

In particular cases, mediators play a critical role in managing conflicts through negotiations between rivals. In order to provide impartiality, the mediator is generally a third party though not necessarily always so. As Kriesberg notes, mediation involves a variety of methods and strategies that will foster negotiations and assist to reach an agreement between former enemies. Mediators do that by facilitating and increasing formal or informal interactions as well as by building trust, developing new options or solutions and altering the procedures when negotiations are struck (Kriesberg, 2007: 461-462). That is, in order to bring an end to the existing cleavages, the mediator helps the contending parties to negotiate a settlement especially through increasing communication channels. Bercovitch and Jackson explain an important difference between mediation and negotiation. Despite the fact that their distinction is generally made for the international conflicts, it can also be applied to the internal conflicts. The authors hold that negotiation is mostly used when conflicts are relatively simple or of a low intensity and different parties have equal power whereas mediation is applied in conflicts “characterized by high complexity, high intensity, long duration, unequal and fractionated parties, and where the willingness of the parties to settle peacefully is in doubt” (2001: 59). In our cases, no mediators are involved in the conflict management processes between rival groups except the mediator role of Nigerian and South African governments between the demands of different groups. Yet, this is not even close to the classical mediating role of third parties used in the conflict management literature.

As discussed, a wide range of methods are used in order reduce the intensity of a conflict or simply to terminate it. The win-win policy in the bargaining and negotiation process is also a useful means to provide the inclusion of the concerned parties. In this way, when all parties make concessions in order to gain certain profits, the party that withdraws from the negotiation process is highly disadvantaged. It is equally important that the compromise between the conflicting parties could be more long-lasting if an accommodation is reached through a negotiation or bargaining process rather through a top-down process. Reconciliation process in the post-settlement period is highly important in order to make conflict

management more effective or to produce long-term results. The reconciliation between former adversaries is not an easy task but requires multidimensional methods. As noted by Kriesberg, the contending parties might have disagreements about the truth on their past and current relations. This constitutes an important barrier to reconciliation which occurs at different speeds and in different degrees for the rival groups (2007: 465-466). The constitution-making process in South Africa is evaluated as a good example to reconcile communities who had diverging views on the past and future and who did not trust each other as a result of the apartheid legacy (Fleiner et al., 2003: 47). Federal principles have contributed to reconciliation process –they still do- especially in South Africa along with other measures such as the establishment of Truth and Reconciliation Commission.

In more general sense, the conventional literature of conflict management which involve and define the ways of peacekeeping cannot be fully applied to our cases since the focus is to analyze the capacity of federal applications. These federal arrangements can be adopted by unilateral acts of governments not through the efforts of mediators or negotiators. Here, institutional and constitutional arrangements play an important role in analyzing the ability of federalism in conflict management. By taking Nigeria and South Africa as case studies, the study questions the ability of federalism as an institutional arrangement in managing or mitigating conflicts. It also tries to analyze if federal institutions have the capacity to meet the related challenges in this way, and if they have, what role can these institutions play on improving the future relations of former adversaries. The implications of federal promises or (federal) principles on conflict management is the major concern of the study because federalism is increasingly used as a means by which conflicts can be managed, diminished or resolved especially in multi-ethnic countries. This raises the academic interest on federalism studies, on which we try to present a contribution. Before proceeding to the practice of federalism on conflict management, the following part will theoretically question the efficiency of federalism as a conflict management strategy. It is also the greatest challenge of this study, uniting the separate literatures of federalism and conflict management.

1.5. FEDERALISM AND CONFLICT MANAGEMENT: A THEORETICAL ANALYSIS

The twenty-first century, as its predecessor, is the era of nationalism where increasingly rising nations seek for self-determination, secession or at least territorial autonomy. In this process, multiculturalism and ethnic diversity has become a new challenge for the divided societies. Moreover, in this epoch of nationalism, many conflicts having ethno-regional, linguistic, cultural, tribal, racial and religious origins challenge the very existence of several African countries while some of them endanger their political as well territorial integrity. Many states struggle to maintain their national unity as well as territorial integrity through granting constitutional rights to the ethnic minorities within their boundaries or through institution-building measures since defusing these groups by force is no longer a viable option for the leaders of the nation-states. History has shown that using forceful means instead of institutional devices to suppress nationalistic demands or secessionist movements are far from providing a plausible solution but instead, it brings many troubles having long-term consequences as the re-escalation of conflicts. In this process, institutional designs including different forms of political decentralization like federalism are seen as a meaningful device in containing diversity. Such arrangements are assumed to have the capacity to satisfy community claims and even to preclude secessionist behavior. However, when trying to analyze the connection between federalism and conflict management, we must avoid a teleological assumption that all federal arrangements necessarily contribute to conflict management. In this way, a comparative analysis will help us to understand how different federal applications will produce different outcomes and provide diverging opportunities for conflict management.

As discussed in the introduction, states adopt federalism for various and diverging reasons. Federalism is believed to bring many benefits for the plural or ethnically and culturally divided societies.³¹ Although being many, the assumed

³¹ Here, the distinction of Grofman and Stockwell to explain the difference between plural and pluralistic societies might be useful. In their definition, pluralistic societies are “nations which are multiethnic in character but in which ethnic differences have been minimized in importance” while plural, or ‘deeply divided’ societies “are those where politics is organized largely or entirely along ethnic lines, and two or more ethnic groups compete for power at the center of the political system”

merits of federalism are mostly classified under three headings; promoting democracy, enhancing development and accommodating diversity (Fessha and Kirkby, 2008: 248). The management of intrastate conflicts and overcoming demands on self-government constitute the main drive of many African states in debating and adopting federal applications even though there are various other motives behind the opting of any decentralized form of government. This is especially because adopting new institutional devices are preferred in order to meet the particular needs of societies. Within the following sections on South Africa and Nigeria, this potential of federalism will be evaluated by focusing on the relevant literature and by asking “can” and “how” questions. The first type of the question investigates if federalism has the capacity to contribute to the conflict management in these societies while the second type of “how” questions examines if it can, how does such a decentralized form of government can fulfill its functions on managing conflicts.

There are two diverging views in the literature on the potential of institutional arrangements including federalism to accommodate intrastate conflicts. The first view questions the promise of federalism on conflict management and instead, focuses on its drawbacks to accommodate the existing cleavages and ethnic nationalism within particular societies. However, the latter assumes that political decentralization provides a meaningful device to peacefully mitigate and manage conflicts and thus, contribute to accommodate diversity. According to this view, federal forms of territorial autonomy/self-rule does it by maintaining the coexistence of different racial and ethnic groups within the same area while, at the same time, enabling them to attain political power whether in local, provincial or national arenas. Federalism, therefore, acts as a meaningful device to settle or manage conflicts by proliferating the points of access to power and moving the power away from one focal center. Decentralization or more specifically, federalism is assumed to dilute potential conflicts by providing some political power to all citizens and minorities in situations where sources of diversity like ethnicity, religion and language are used in order to mobilize people in conflicts. The adoption of federal principles is even supposed to help to effectively resolve conflicts where the state is

(2003: 102). Following this argument, it can be argued that Nigeria is highly plural while the post-apartheid South Africa emerged as a plural country but then turned into a pluralistic one.

not originally federal. Federalism is also assumed to make the national hegemony of a particular group more difficult since in a federal country, different ethnic, racial or religious groups inhabiting within the same regional state (Fleiner et al., 2003: 57; McGarry and O’Leary, 2005: 7; Steytler and Mettler, 2001: 93; Sunstein, 1993: 440-441) are granted the right for equal representation at least hypothetically and are also given substantial regional autonomy. In a federal system, not only different communities but also federal states are equally represented in many areas.³² Fleiner et al argue that only through constitutional provisions of a federal system, a balanced development of all communities, including the majority and non-majority groups can be provided. In a federal design, different groups can more easily promote their culture within their own territories through a balance of *shared-rule* and *self-rule* (2003: 48). The authors argue that:

Federalism offers a constitutional mechanism that not only tolerates but can also promote diversity. Not only does it limit state power, but it also enables diverse communities to participate in government. A federal state need not exclude culture, but can use the value of cultural diversity to enable the whole society to participate in the endeavor of the state to seek justice, promote peace and protect liberty. Thus, understood, federalism is a tool for a multicultural state to derive maximum benefit from diversity (2003: 48-49).

The relation of federalism with conflict management is also analyzed in regard to representation issue. Federalism does not only provide equal representation in the public sphere but it also addresses minority issues (Loizides, Kovras and Ireton, 2010: 9). From such a conflict management perspective, it is argued that federalism minimizes the potential of conflict by promoting the distinctiveness of minorities³³ who fear the dominance of the majority (Simeon, 1998: 4). In a federal system, the majority cannot dictate its will over minorities (Simeon and Conway, 2001: 339) given that power is both shared and limited. Linder also puts that “federalism permits

³² There are also many specific provisions on the number of representatives of federal states in any governmental agency. Those may be based on population numbers like the German case. For example, Section 29(4) of Germany Constitution (1949, last amended on 2009) requires that one tenth of the population of federal states (Länder) -which has a population of at least one million- are entitled to vote in House of Representatives (Bundestag) elections. According to Nigerian federal character principle, each state has a quota in the allocation of government posts.

³³ In the federalism literature, the term minority can be understood in a different way than is understood in the conventional literature. In a federal country, a particular group might be majority in the nation-wide but at the same time; it might constitute the minority in various federal states. As Simeon notes, the problem of “minorities in minorities” or the newly-minoritized communities as the Afrikaner population in South African case, requires that minority rights should be guaranteed as supplementary to provincial autonomy. Here, the comprehensive Bill of Rights in South African constitution constitutes a significant example (1998: 6).

cultural differences to coexist” (2010: 19) where minorities exercise autonomy especially in matters crucial to their existence and identity (Simeon and Conway, 2001: 339). By protecting community rights and by enabling ethnic, cultural and national minorities the specific function of territorial autonomy, federalism satisfies nationalist demands or at least it diminishes ethnicity or diversity related problems raised by conflicts between minorities (Lijphart, 1999). This simply means that federalism contributes to conflict management process by establishing a power balance between majorities and minorities and by strengthening the feeling of the latter to be a part of the state they live in (Töpperwien, 2009: 4).

Federalism helps the recognition of minority rights both for the minorities in the larger state and the minorities in the federal states (Linz, 1997: 12). Some élites believe that accommodation of national minorities is the key factor in providing the stability and unity of the country. McGarry and O’Leary define these élites as “multi-national federalists” who argue that the minorities will not demand to establish their own nation-states if the boundaries of the federal states match with the boundaries of national, ethnic or any other communities. Through the creation of more homogenous federal states, the society becomes less heterogeneous (2005: 10). It is also important to note that through provincial autonomy or self-rule, federal units can run their own domestic affairs including matters on road infrastructure, health (Loizides, Kovras and Ireton, 2010: 2) or education. In some federal countries, some communities are allowed to have education in their mother-tongue or to have their own schools. Federalism, thus, allows regional specialization in certain issues than from a centralized state (Loizides, Kovras and Ireton, 2010: 9). Through this *self-rule* principle of federalism, the lower levels of government can govern policy areas which are important for ethnic groups or which may be otherwise divisive (Töpperwien, 2009: 3).

As Spears puts it, power-sharing “offers a promising solution to groups who can neither envision secession nor tolerate the status quo and who... call for a ‘radical restructuring’ of power” (2000: 105). Federalism is, thus, further defined as a pragmatic choice between a unitary state and secession or as a political alternative to disintegration or secession (Fessha and Kirkby, 2008: 251; Rubin, 1997: 1031-1032). As Azikiwe puts it, in most federal systems, the local autonomy principle is based on

the assumption that “if the parts can coexist, the whole will exist” (1965: 461). Simeon further argues that “all regional and autonomist movement are a combination of ‘we want out and ‘we want in.’ The trick is to find the rights balance” (1998: 5). This raises a series of questions including the ability of federalism to contain secessionist demands.³⁴ Federal solutions are assumed to have the capacity to counter secessionist claims by granting a certain degree of territorial autonomy to these groups. Segmental autonomy also promotes the expression of national identities. Many scholars maintain that the establishment of regional autonomy can serve as a solution to accommodate diversity in the conflict-management process (Fessha and Kirkby, 2008: 252; Lake and Rothchild, 1996: 42; Linz, 1997: 30). According to Martinez-Herrera, federalism confronts nationalist demands for self-determination of ethnic groups by removing the threats to their existence and by promoting their culture and values (2010: 143). However, in an effective conflict management process, minority groups should be assured that both their physical security and cultural security will be protected (Lake and Rothchild, 1996: 42). According to Lake and Rothchild, in addition to regional autonomy and federalism, the following principles of power-sharing and elections producing the interdependence of groups, can provide important measures of confidence-building which can also promote the rights and positions of minorities (1996: 42). McGarry and O’Leary also point out that a federal system should not only contain self-government but should also have a consociational federal center (2005: 20). The following chapters will better indicate and detail how federal arrangements are used in order to contain the claims of self-determination or secession in our cases.

As discussed, experts also point out negative or unexpected consequences of federal applications. Among many of them is federalism’s dilemma of institutionalizing or even reinforcing conflicts. In this process, it is believed that the establishment of provincial governments can provide the necessary institutional

³⁴ It is controversial if federalism has the capacity to preclude secessionist demands and overcome separatism. However, here, a distinction has to be made between the claims of self-determination and secession. As Buchanan notes, rights of self-determination are political rights which are exercised within the state including the right of self-government, regulation of the use of land and the development of natural resources. The most prominent form of self-determination is the establishment of federal states. On the contrary, secessionists assert that the problems they encounter within the particular state they inhabit could be solved by getting their own state. According to this view, “the problem is *a* particular state, not the character of the state itself” (1995: 54-55).

foundation for a future secessionist movement. Segmental autonomy or self-government may increase ethnic consciousness within the population, intensify ethnic conflicts and lead erosion in national identity. Such negative outcomes of federalism raise the question whether the increase in the provincial autonomy is the best way to manage conflicts (Linz, 1997: 32-32; Simeon, 1998: 5). Elazar also points out the difficulty of the application of federalism in multi-ethnic societies where ethnic nationalism may be so strong. He, therefore, considers ethnic federations the most difficult type of federal systems to sustain and to have a short lifespan (1993: 194). Federalism, according to this view, is inapt in dealing with conflicts it was designed to manage. This scholarly work includes the argument that the management of ethnic conflicts is complicated because ethnicity is usually combined with other “conflict-generating cleavages” including religion, race and regionalism (Osaghae, 1998: 1). This is true especially for the case of Nigeria, and to some extent for South Africa. The levels of ethnic consciousness and ethnic politization also differ in each case which is related to different histories of inter-ethnic relations and thus, different perceptions among ethnic groups regarding state policies. In this vein, it is argued that presenting a “catch-all management formulae” as federalism and assuming that all ethnic conflicts can be dealt in this uniform way would be an oversimplification. Appropriate formulas, therefore, should be designed by considering the demands of complex situations (Osaghae, 1998: 1).

1.6. CONCLUDING REMARKS

The division in the literature of federalism and conflict management leads one to question if federalism has the capacity to fulfill its attributed merits including conflict management. As Spears points out, power-sharing arrangements may be so appealing in theory but may fail in practice (2000: 105). However, drawing from the above-discussed arguments, it may be argued that if federalism can contribute to conflict management, it does it by various ways including:

-Creating separate states for ethnic groups demanding self-determination or secession: The creation of states as federating units is seen as a useful means to manage conflicts or prevent the conflict potential. This principle of self-governing

status is important in order to satisfy the separatist claims or nationalist aspirations of the ethnic communities and provide them another space for representation.

-Increasing regional autonomy: Offering a certain degree of regional autonomy to the ethnic or territorial groups and the adoption of constitutional provisions which guarantee this autonomy provide access to power and state resources to the component units. In some of the cases where certain communities fear the dominance of majority groups but cannot afford to establish their own sovereign states, federalism offers the best alternative for secession. However, in order to talk about true regional autonomy, state governments should be allocated sufficient power and competency. In this way, federal states which are granted a slice of power have the right for self-rule in certain competencies recognized in the constitution. Through substantial constitutional clauses which ensure their integrity, they have the right to make at least some of the decisions directly affecting them. Through shared-rule and self-rule, constituent units attain a voice in the decision-making process at both national and regional levels given that federalism allows power sharing between the central government and state governments.

-Proliferating points of power, ensuring representation to all groups and if necessary, establishing institutions to ensure this representation: Sharing power equally through inclusive decision-making processes of government bodies especially in national and regional legislature is important to satisfy group demands. This means that different communities have rights and presence in the decision-making and executing processes at the national and regional levels. The minorities are given a seat in the governance of the country and share power with the majority. The representation of a significant number of recognized opposition parties also increases the legitimacy of the new regime. In this process, the establishment of (federal) institutions like the Federal Character Commission (FCC) of Nigeria which monitors equal representation may contribute to transcend cleavages.

-Promoting diversity and coexistence through constitutional provisions: Federalism can provide a meaningful device to hold the country together by respecting community rights such as the official recognition and protection of minority languages through institutional and constitutional recognition. Although this clause is not peculiar to federal forms of government, protecting diversity and

minority rights are one of the key structuring principles of any federal system. In this way, the clashing groups find less to fight about.

Those are only the outline of key principles through which federalism can contribute to effective conflict management. The details of federalism's ability in this regard will be presented in the following chapters. South African transition to democracy following a constitutional negotiation process is evaluated by many experts as a success story where historical rivals were able to cooperate with each other in order to make peace and provide stability. Federal concessions played a key role in achieving this aim and further mitigating conflicts among ethno-racial groups. Nigeria is also evaluated as an example for the African countries where federal applications have been maintained following independence. Despite its many shortcomings, the federal system in Nigeria was sustained except the brief period of six months between January 1966 and July 1966. Territorial integrity was also provided in Africa's longest standing federal country and no secessionist attempt was witnessed after the Biafran War of late 1960's.

However, before proceeding to the South African federalism, it should be mentioned that the feasibility of federalism as a conflict management device in our case countries will be analyzed in different time periods when the conflicts were at their peak. In order to analyze the potential of federalism to regulate conflicts in South Africa, the period between the two years following 1994 elections are highly important. Those are the crucial years in the country that determined the potential of federal principles for South Africa and the future relations of ethnic groups. Therefore, in analyzing the promise of federalism in solving conflicts in South African society, the politics and internal dynamics that affected the constitutional negotiation years will be the focus. Following this date, no serious conflict between the country's ethno-racial groups was experienced and self-determination demands of certain groups were tamed in the advancing years. In Nigeria, on the other hand, there is an ongoing process as opposed to that of South African case. Federal conflict management strategies tend to be used in Nigeria following the independence years and Nigerian government still applies some of these federal principles in order to meet the demands of diversity and accommodate its intransigent conflicts. Therefore, in Nigerian case, the focus is all the post-independence years when several federal

applications were tried in order to manage ethno-regional and ethno-religious conflicts.

CHAPTER TWO

FEDERALISM, CONFLICTS AND CONSTITUTIONALISM IN SOUTH AFRICA

The Republic of South Africa is a multiethnic country which is divided into nine provinces, namely, North West, Gauteng, Northern Cape, Western Cape, Eastern Cape, Free State, KwaZulu-Natal, Limpopo and Mpumalanga.³⁵ Prior to 1994, South Africa was comprised of four homelands/bantustans which was later granted “independence”,³⁶ Transkei (1976), Bophuthatswana (1977), Venda (1979) and Ciskei (1981), and six self-governing states/territories; KwaZulu, Kwa Ndebele, KaNgwane, Owaqwa, Gazankulu and Lebowa. The larger four provinces, Cape Province, Orange Free State, Transvaal, and Natal incorporated these bantustans and self-governing territories. In 1994, all of these former entities have been corporated into South Africa.³⁷ The country has three capitals, namely, Cape Town, the legislative capital, Pretoria, administrative capital and Bloemfontein, the judicial capital. South Africa has a population of 50,586,757.³⁸ According to the *Statistics South Africa*, there are four main population groups within the country; African (the black population), white (e.g. the British, Afrikaners³⁹, Portuguese, German), coloured (those of mixed race, e.g. Malays, Hottentots, Griquas) and Indian/Asian.⁴⁰ The 2010 numbers estimated that the population of the country was 49,991,300. As

³⁵ See Chapter 6, 103(1) of the 1996 Constitution of the Republic of South Africa. No 108 of 1996. <http://www.info.gov.za/documents/constitution/1996/a108-96.pdf>, (10 September 2012). The most populous provinces are Gauteng (11,191,700) and KwaZulu-Natal (10,645,400) which, together, represents nearly half of the overall population. See Appendix 4 for the population estimates by province (2010).

³⁶ As will be analyzed in the following pages, the bantustan policy of the apartheid government was subject to harsh criticism of the international community, and as a result, none of these “independent” bantustans were internationally recognized.

³⁷ See the Appendix 2 for the map of South African Black Homelands and see Appendix 3 for the Map of South African Provinces. The names of four provinces were changed following the 1994 elections. The province of Eastern Transvaal became Mpumalanga, Northern Transvaal became Northern Province and later in 2003 it became Limpopo whereas Orange Free State became Free State and Pretoria-Witwatersrand-Vereeniging (PWV) became Gauteng.

³⁸ South Africa Government Online. <http://www.gov.za/>

³⁹ The “Afrikaner” is an ethnic group comprising from the early Dutch, German and French settlers in South Africa speaking the language of Afrikaans as their mother tongue.

⁴⁰ The origins of this racial categorization is based on the apartheid system and its product of 1950 Population Registration Act which distinguished four racial categories, Bantu (all black Africans), coloured, white and Indian/Asian. Encyclopedia Britannica. (n.d.). Apartheid. <http://www.britannica.com/EBchecked/topic/29332/apartheid#ref210033>, (5 December 2012).

indicated in the below table, this includes the African population of 39,682,600, comprising nearly 80 percent of the population (79,4 percent in exact numbers) and the white population, constituting the second largest population group of the country which amounts to 9,2 percent numbering about 4,584,700.⁴¹

Table 2: Mid-year Population Estimates for South Africa by Population Group, 2010

Population Group	Number	Percentage of Total Population
African	39,682,600	79,4
Coloured	4,424,100	8,8
Indian/Asian	1,299,900	2,6
White	4,584,700	9,2
Total	49,991,300	100,0

Source: Statistics South Africa. (2010). Mid-year population estimates, 2010.

In terms of the religious affiliations, the 2001 census indicated that a third of the population was classified as Christian while another third of the population indicated that they belonged to one of the independent Zionist churches. As the 2001 data provides, only a small minority of the population are Muslim (1,5 percent), Hindu (1,2 percent) or Jewish (0,2 percent). Moreover, 15,1 percent of the population stated that they did not belong to any religious group.⁴² As distinct from the Nigerian case, South African population is not divided along religious lines. However, in addition to ethno-regional tensions, racial conflicts were and still have been an important part of South African politics, a legacy of the apartheid era.⁴³ Some experts including Guy hold that many years have to pass in order to achieve true racial integration in South Africa (2000: 3). However, before proceeding to the origins of ethno-racial conflicts in South African society and the late-coming negotiation process between different ethnic groups, we first have to explain why the political

⁴¹ The related data was obtained from the 2010 population estimates due to the ongoing data processing of 2011 census. Statistics South Africa. (2010). Mid-year population estimates, 2010. <http://www.statssa.gov.za/publications/P0302/P03022010.pdf>, (4 December 2012). See also Appendix 5 for Population Groups by Province.

⁴² The recent data on the religious affiliations of South African population belongs to the 2001 census. Any question on the religious affiliation was not included in 2011 census because it was low on the list of priorities by the users of the census. Statistics South Africa. (2011). Frequently Asked Questions. <http://www.statssa.gov.za/census2011/faq.asp>, (04 December 2012).

⁴³ Apartheid, often roughly defined as “separate development” (Encyclopedia Britannica) refers to the policies of political and economic segregation and a system of differentiation which privileged white people over the rest of the South African population, particularly the black majority. It was enforced by the ruling NP government between the years of 1948-1994.

type of organization in the country should be considered as a quasi-federal system -as most experts describe it- and the defining characteristics of South African federalism.

The ambivalent character of South Africa's government system in the 1996 final constitution indeed explains why the literature elaborating the government system of South Africa is divided. Nevertheless, there are several students of federalism who describe the country's political type of organization as federal or quasi-federal (Ahmad and Brosio, 2009; Brosio, 2000; Keller, 2007). The problem, here, stems from the fact that the character of the form of South African government is not formally identified as federal in the constitution. This is a conscious preference of South African leaders who are divided related to the fear that such a definition would awaken divisions along racial lines. This is why South Africans were defined as "reluctant federalists" (Murray and Simeon, 2011: 232). Elazar also regards South Africa as a federation in almost every respect but does not refer to itself as such (1998: 9). It is also argued that South Africa has clear federal features (Visser, 2010) even though being a federal system with highly centralized features (Watts, 2003: 2). Some other scholars define South Africa as a constitutionally guaranteed federal state while remaining fragile in practice (Hueglin and Fenna, 2006: 142).

The previous chapter analyzed what distinguishes federations from other kinds of political systems including unitary systems and confederations. However, it was not mentioned that some political systems are hybrid systems which combine characteristics of different forms of government. As discussed by Blindenbacher and Watts, such systems carry the characteristics of a federation both in constitution and operation, but have a strong central government which makes them to look like a rather unitary system. These political systems are sometimes defined as "quasi-federations" like that of South Africa (2003: 10). Blindenbacher and Watts also argue that "hybrids occur because statesmen are often more interested in pragmatic solutions than in theoretical purity" (2003: 11). South African quasi-federal system indeed emerged from pragmatic and practical considerations of the transition period and the adoption of federal provisions contributed to overcome most of the dangers of this process.

The following factors in South African political life will provide important insights why the government system in the country should be defined as federal or at

least quasi-federal. First, there exists a multi-sphere governance in which each sphere is interrelated and interdependent while having their competencies. The status of each sphere is protected by the Constitution and provinces as well as municipalities have autonomy in certain areas even though limited in scope. One of the main attributed merits of federalism, providing “unity in diversity” is emphasized in the preamble of the South African Constitution as, “We, the people of South Africa, ... believe that South Africa belongs to all who live in it, united in our diversity.” As Simeon puts it, “whether or not the term appears in the constitutional document, and whether or not the institutional design meets Wheare’s strict definition of federalism, the reality is that South Africa has chosen a multi-level system of government, one which incorporates many elements found in other federal constitutions” (Simeon, 1998: 20). Here, it will not be wrong to conclude that South Africa can be defined as a federation but a highly centralized one.⁴⁴ As will be analyzed in more detail within the section on the national constitution-making process, some South African parties like IFP (Inkatha Freedom Party) -a movement demanding self-determination for KwaZulu self-governing territory- and the outgoing NP sought federal provisions during negotiations while the ANC wanted a strong unitary government. The result was a compromise on the adoption of a quasi-federal system. This explains how federal structures can be the instruments of negotiations.

The debate on the nature of the South African state will likely continue, however, it is interesting to note that in 1952, Livingston defined the Union of South Africa –the predecessor of the Republic of South Africa- as a federal rather than a unitary state by analyzing the processes of politics in the country (1952: 92). In the following section, then, the origins of federalism in South Africa will be elaborated by presenting a historical perspective based on the federalist demands and applications in pre-1994 era. Before proceeding to the characteristics of South African federalism, it is necessary to provide such an overview of South African politics both before and during apartheid era in order to better trace the federal features in pre-apartheid regime and the main sources of ethno-racial conflicts leading to the adoption of federal principles in post-1994 period. The following first part of the chapter will begin by evaluating the federal demands or practices during

⁴⁴ The centripetal features of South African constitution will be elaborated within the following pages.

this period while the second part will continue with the main sources of conflicts in South African society. The last part, the bulk of this chapter, will analyze the main drivers of the negotiation process, which led to the adoption of a new constitution for South Africa and which also helped to minimize the existing conflicts in the country. It will be concluded that it is the inclusion of federal principles to South Africa's 1996 constitution through an inclusive constitutional framework which has mostly contributed to the conflict management in the country even though South Africa has later become a more centralized country within the last one and a half decades.

2.1. THE ORIGINS OF SOUTH AFRICAN FEDERALISM

The origin of the federalism debate in South Africa goes back to the apartheid era and even earlier.⁴⁵ It is an argument that South Africa Act 1909 which united four separate British territories, namely, Natal Colony, Cape Colony, Transvaal Colony and Orange River Colony under one rule may be accepted as the first federal initiative in the country.⁴⁶ However, federalism does not have a good reputation in South Africa particularly for the application of a selective federal regime -federalism for only the white population. In the discussions over the Union, the British

⁴⁵ Du Toit even holds that the origins of the debate on federalism can be traced back to the 1850s, to the governorship of Sir George Grey in Cape Colony. However, during that era, it could not become an issue of local politics (Du Toit, 1974: 4, reviewed by Wright).

⁴⁶ The colonial history of South Africa dates back to the sixteenth century. In fact, Portuguese traders were the first arrivals to the South African coasts. The Portuguese settlement in Southern Africa was followed by the Dutch settlement, first through the activities of Dutch East India Company in South Africa at the Cape of Good Hope in 17th and 18th centuries (McKenna, 2011: 15, 18 and Stapleton, 2010: 1-2). These early settlers came not only from Netherlands but also from Germany and France. They identified themselves as burghers and later as boers -the word "boer" means "farmer" in Danish. Their descendants later developed an Afrikaner identity while "speaking an adaptation of Dutch called Afrikaans" (Maharaj, 2008: 7). The British arrived later but British settlers soon gained the control of the country following two Anglo-Boer Wars fought between the British and Dutch forces in late nineteenth and early twentieth centuries. The Second Anglo-Boer War -which is accepted as an anti-colonial war- brought all white settlement under one rule and helped to develop an "autonomous South African nation" (Fredrickson, 1981: 138) which was mostly achieved through the signing of South Africa Act. However, the Act failed to unite South Africa as the black majority was excluded from the political process (Van Der Westhuizen, 2005: 311). The social hierarchy which dominated South African politics under apartheid regime has its roots in the first days of the European settlement. The employees working for the Dutch East India Company had individual rights depending on being settlers or slaves or belonging to "mixed" races." This hierarchy would later be institutionalized under apartheid system. Despite the divisions between the Afrikaners and English-speaking whites, they were united in their shared racism against the black population in order to build a nation for whites. The traditional "divide and rule" policy was employed in order to separate the rest of the population by law. The colonial administration treated each of the groups of Africans, Indians and Coloureds differently (Maharaj, 2008: 7; W. Marx, 1998: 84).

reluctantly gave concessions to the Afrikaners such as granting a large measure of autonomy to the provinces of Transvaal and the Orange Free State in order to avoid the renewal of a war between two parties. After the establishment of the Union in 1910, South African government began to limit the already limited rights of the black population by forbidding them to hold skilled positions in particular industries, to own land in certain areas and to run or even to vote in elections (Collins and Burns, 2007: 345-346).

The creation of the “bantustans” or “homelands” which was based on the 1951 Bantu Authorities Act, the 1959 Bantu Self-Government Act and the 1971 Bantu Homeland Constitution Act constitutes one of the underlying reasons behind the disrepute of federalism in South Africa.⁴⁷ The bantustans which are known in government circles as “national states” or “black states” (Egerö, 1991: 6) were designed to provide separate territories where the non-white (black and coloured) population would inhabit. In Jones’s words, these “extreme forms of territorial fragmentation” or “pseudo states” (1999: 579) have soon become a very important part of apartheid’s vision of separate development (King and McCusker, 2007: 6). The homelands were granted a certain degree of autonomy as well as a certain degree of internal self-government. South Africa’s bantustans, having administrative powers, also had their own national symbols, flags and emblems. However, it is interesting to note that the bantustan strategy is not the result of territorial demands of certain ethnic groups, but rather, it is the own policy of the apartheid regime to create separate and homogenous territories in order to insulate white rule (Egan and Taylor, 2003: 95-98). The major underlying reason behind the creation of bantustans was to create homogenous national states and by doing so, encourage ethnic nationalism and satisfy the nationalist demands of the black population. It was a strategy of the ruling apartheid regime to provide a political alternative to granting citizenship rights to the black inhabitants (Egan and Taylor, 2003: 95-98).

F.W. De Klerk, the former leader of the NP and the last president of apartheid-era South Africa, argued that at this time, “separate development” policy of

⁴⁷ The first of the bantustans was created in the Transkei in 1963 (D’Amato, 1966: 177). While initially ten bantustans were identified, namely, Transkei, Bophuthatswana, Venda, Ciskei, KwaZulu, Kwa Ndebele, KaNgwane, Owaqwa, Gazankulu and Lebowa, only the first four of them were given independence and the remainder were defined as “self-governing states.” However, as noted before, these “independent” bantustans lacked international recognition (Egan and Taylor, 2003: 97, 100).

the apartheid regime was seen as a genuine conflict management strategy (1998, cited in Egan and Taylor, 2003: 95-96). However, ethno-territorial politics in this era did not contribute to decrease the conflict potential in South African society; but instead, it increased the very conflicts that it sought to resolve. The homelands policy further created ethnic divisions that did not previously exist, deepened social inequalities and laid the foundations of the opposition to ethnic politics in contemporary South Africa (Egan and Taylor, 2003: 95-96). This rhetoric of federalism which was used after 1948 by the apartheid regime in order to legitimate the ethnic and territorial separation (Hueglin and Fenna, 2006: 142) and the application of a forced federalism by the creation of bantustan homelands explains the refusal of the adoption of a fully-fledged federal system in the negotiation process especially by the ANC leaders.

Another federal-like initiative was taken in early 1980s with the creation of a tri-cameral legislature by the South African Constitution of 1983 during the prime ministry of P.W. Botha. This legislature based on ethnicity with the Republic of South Africa Constitution Act was comprised of three different chambers each of which allowed the membership of one ethnic group only:⁴⁸ While the House of Assembly had 178 white members, the House of Representatives and the House of Delegates had 130 coloured and Indian members in total. These chambers were authorized to legislate in their “own affairs.” Even though in principle, the three chambers could together legislate in matters which are defined in the constitution as “general affairs”, in practice, the rights and powers of chambers could be said to be on their “own affairs.” It is important to mention that the majority black population was not included into this legislation process created by the 1983 Act (Marasinghe, 1993: 828-830).⁴⁹ Egan and Taylor hold that 1983 Constitution and the multi-racial tri-cameral parliament that it created was designed to include the coloured and Indian/Asian population to the political process because the Bantustan policy could not viably be applied to those groups (2003: 103). The 1983 Constitution which denied the blacks a political role increased the frustration among the black

⁴⁸ Note that any federal system may carry some of the consociational features as this federal arrangement included one of the four principles of consociationalism, group autonomy.

⁴⁹ See also The Republic of South Africa Constitution Act 110 of 1983 especially Sections of 37-67. <http://www.law.wisc.edu/gls/cbsa2.pdf>, (12 March 2012). Part IV of the 1983 Constitution (Sections 14-18) further distinguishes between “own affairs” and “general affairs.”

population. It, therefore, led to uprisings in black townships through mid-1980s and to the following declarations of states of emergency (Huntington, 1991: 154). The real federal process began in mid- 1990s with the demise of the apartheid regime and transition to democracy. However, in order to provide a complete understanding of this process and the promise of federalism in conflict management, the analysis of the sources of conflict within South African society is important.

2.2. SOURCES OF CONFLICT

Even though South Africa, a former British colony, gained its independence from the British in 1961, the country remained under white majority rule who determined to sustain the racial discrimination practices of the colonization era. This explains the very basis of ethno-racial strife prevalent in South African society under apartheid system. In the light of the diverging arguments within federalism and conflict management literature, the evaluation of South African conflicts will indicate the potential of federalist arrangements in diffusing conflicts.

2.2.1. Apartheid Legacy and the Bantustan Policy

Apartheid is generally identified with the National Party which governed the country in the second half of the twentieth century, from the 1948 elections until the end of the apartheid regime in 1994 (Worden, 2012: 104). However, the black majority of the population was exposed to racial discrimination (policies) before the NP government which implemented a strategy of separate development and gave these policy implementations a new impetus. Apartheid system inherited a racial order in South African society known as (residential) segregation (1910-1948) (Evans, 1997: ix). Through discriminatory policies both before and during apartheid, the blacks were excluded from the political participation and the freedom of movement of the black population was restricted especially by preventing the Africans from entering the white urban areas. The 1913 Natives' Land Act (also known as Bantu Land Act or Black Land Act) limited the areas that the Africans could occupy. The Act stated very clearly that a commission should be appointed by the Governor-General in order to inquire and report "what as areas within which

natives or (other than natives) shall not be permitted to acquire or hire land or interests in land” (Section 2).⁵⁰

However, the areas that the native population could own as their property totaled only seven percent of the landmass (Collins and Burns, 2007: 346). The following Bantustan policy of the NP was adopted as a strategy to further exclude the Africans from national political participation process while at the same time, to satisfy black national aspirations. The Bantustan Policy dictated the allocation of Africans to their ethnic bantustans “even if they had never lived there.” As a result of the forced removals of Africans, over half of the African population was settled in their designated bantustans by the 1980s, while initially none of the bantustans were ethnically homogenous (Egan and Taylor, 2003: 98). Experts note that within a 25 years of time, 3,5 million (King and McCusker, 2007: 8; Turshen, 1986: 887) or over four million (Egan and Taylor, 2003: 98) black South Africans were involuntarily removed to bantustans.

In 1966, an expert noted that: “by geographical isolation of each of the non-white ethnic groups into separate homelands or ‘bantustans’, leaving the remainder of the territories of South Africa ... to the whites, the Nationalist Government is proceeding to change the face of Southern Africa” (D’Amato, 1966: 177). The Bantustan policy indeed changed every walk of life in South African society so deeply that the bantustans are often evaluated as “the cornerstone of separate development under apartheid” (Egerö, 1991: 7). As noted, the creation of the Bantustan homelands was used as a device to provide a political alternative to Africans and as a means to recognize ethnic identities and autonomy. The voting system in the Bantustan legislatures was based on ethnic lines in order to silence the claim for national voting rights. The NP government also presupposed that the bantustan strategy would increase ethnic consciousness and lead to the development of an African identity. The creation of bantustans were justified on the grounds that these territories better represented African culture (Aspirant, 1996; Egan and Taylor, 2003: 95-100; King and McCusker, 2007: 7; Ramutsindela, 2001: 176).

⁵⁰ See The Natives’ Land Act. (1913). <http://www.polity.org.za/polity/govdocs/legislation/misc/nla1913.html>, (11 March 2013).

However, on the other side, deteriorating economic conditions in these territories were coupled with overcrowding and underdevelopment. The living conditions in Bantustans were dire. Malnutrition, diseases and gross violations of human rights were commonplace whilst unemployment and poverty were very high. The land within the boundaries of bantustans was less productive and industrially underdeveloped. The bantustans were also economically dependent on the centre for financial transfers and developmental aids. The people living in the bantustans were also neglected and thus, remained vulnerable to warlords striving to gain political or economic power (Egan and Taylor, 2003: 99; Egerö, 1991; Irobi, 2005; Piper, 2002: 77; Turshen, 1986, 887). Hence, many black opposition movements opposed the bantustan policy of the National Party government. For example, in 1977, prior to the independence of Bophuthatswana bantustan from South Africa, twelve organizations attended to a meeting which was organized in order to work out strategies on preventing the “independence” of Bophuthatswana.⁵¹ The leader of the Black Consciousness Movement, Steve Biko -who was murdered by the Security Police in 1977- defined bantustans as a means to balkanize South Africa and tribalize black struggle through “the creation of Zulu, Xhosa and Tswana politicians by the system” (1987: 86). Ethnic politics which was reinforced through apartheid’s policies including the creation of bantustans generated an important source of instability and ethno-racial strife in South Africa. As the following part will point out, the division among the black population proves Biko right.

2.2.2. Intra-Ethnic Rivalry

As Irobi (2005) notes, there were few conflicts between the white and black populations partly because of apartheid’s segregation policy, however, the same is not true for black ethnic groups. In South Africa’s transition to democracy, two politicized ethnic groups bargained for their demand of self-determination and these demands created intense tensions during negotiation process: The Afrikaner extremists represented by the white right and the Inkatha Freedom Party, the Zulu nationalist party. The proceeding chapters will indicate that both were initially

⁵¹ See The Azanian People’s Organisation (AZAPO). (n.d.). Towards Black Wednesday, 19/10/77, and Beyond. <http://www.azapo.org.za/links/blackwednesday.htm>, (11 March 2013).

frustrated from the outcome of negotiations which was held in 1994-1996 and which resulted with the 1996 constitution, denying such a right to those groups (Shapiro, 1997: 316-317). The Zulu people constituting the majority of the population in KwaZulu, developed a strong sense of nationhood under the leadership of Gatsha Buthelezi, the president of the Inkatha Freedom Party and the chief minister of KwaZulu.⁵² The Inkatha was a Zulu-based movement advocating the self-determination of KwaZulu⁵³, a demand which sustains the ethnic divisions created by the apartheid regime (Golan, 1991: 113). The party also portrayed itself as “the guardian of the essence of Zuluness” (Harries, 1993: 105). There is a strong link between the movement and KwaZulu administration that Inkatha’s constitution was confirmed by the Legislative Assembly of KwaZulu. The constitution required that the president of the Inkatha (who heads the Central Committee) should be the chief minister of KwaZulu and all government officials in the KwaZulu territory should be members of the movement. The IFP used the Zulu past and heritage in various speeches and events in order to draw support from the Zulu people and to achieve political gains. The president of the movement, Buthelezi, also used his royal ancestry together with the use of Zulu history in order to present the Inkatha and

⁵² This is not to deny the historical roots of Zulu nationalism which can be traced back to the pre-colonial era. However, Zulu nationalism was reinforced, manipulated and politicized for political ends by Buthelezi who was determined to be the main representative of the black Africans. Harries emphasizes that before the arrival of colonizers, Zulu identity was based on cultural values defined by the royal family. However, as a result of the works of European linguists, Zulu borders included the people living in the south of Tugela River in the then colony of Natal. Following this tradition, Buthelezi presented the Zulu people as a *Volk* historically occupied in Natal and in the old Zulu kingdom while the KwaZulu self-governing territory was defined as the inheritor of this kingdom. However, Buthelezi frequently emphasized that the emergence of KwaZulu as a state happened in the pre-colonial era and the bantustan structure only followed this historical legacy (1993: 105).

⁵³ The Inkatha -Inkatha National Cultural Liberation Movement- founded by Mangosuthu Gatsha Buthelezi in March 1975. As is noted in the official webpage of the IFP, the party associates itself with the older cultural organization, “Inkatha”, established by King Solomon in the 1920’s: “Inkatha emerged, along with the Black Consciousness Movement, to fill the vacuum in black politics caused by the banning of the ANC and PAC (Pan Africanist Congress of Azania). Most of the founders of Inkatha had been either ANC office-bearers or activists. The most prominent example is that of Dr. M.G. Buthelezi, formerly a member of the ANC Youth League... Although established in KwaZulu, its membership was made open to all blacks” (The Official Webpage of the Inkatha Freedom Party. <http://www.ifp.org.za/2011.html>. The party changed its name, Inkatha YaKwaZulu to Inkatha Yenkululeko Yesizwe in 1980. It was an attempt of the Inkatha to become a “national cultural liberation movement.” In this way, the party opened its membership to non-Zulu people. In 1990, the party changed its name to Inkatha Freedom Party following the unbanning of the ANC and PAC (Harries, 1993: 115). However, in contrast with the official rhetoric, the party remains “tribally centered” in practice (Southall, 1981: 454) as the majority of Inkatha’s members (95 percent) is Zulu-speakers and nearly all of these people live in KwaZulu/Natal (Lowe, 1993: 398).

Buthelezi “as the legitimate heirs of the Zulu kings” (Golan, 1991: 113-124).⁵⁴ However, it is not the desire of the Zulu people on self-determination which created the violent conflicts between the supporters of the IFP and the ANC. These conflicts resulted in the death of thousands of people in late 1980s and early 1990s and brought the country close to an ethnically civil war.⁵⁵ Rather, it was the clash between the leaders of Inkatha and the ANC on the future shape of the government in South Africa. The division of the liberation movement was major source of conflict especially in the transition period.

There were many important reasons behind the violent conflicts between the IFP and ANC, or between their leaders, Mandela and Buthelezi in the early 1990s. While the ANC was in exile, the Inkatha emerged as a strong political force and quickly increased the number of its members. Buthelezi, who was a former member of the ANC’s Youth League⁵⁶ portrayed himself as the leader of the national liberation struggle and defined the Zulu people as playing a leading role in this

⁵⁴ Inkatha’s close association with Zulu aristocracy relies on Buthelezi’s ancestry. Buthelezi was the chief of a prominent clan and has served as the principal adviser to the modern kings including his cousin and his nephew (Southall, 1981: 455). He used his attachment with the royal family as a device to gain the support of the Zulu people as the Zulu king is the symbol of the Zulu nation. However, once the political ambitions of the king have been controlled by the Inkatha and the king has been associated with Buthelezi, Buthelezi even stated that the Zulu king Goodwill Zwelithini (1968-present) together represented the unity of the Zulu people: “His majesty and I share a platform and symbolize the unity of our people. His majesty symbolizes the deep spirit of unity for the Zulu people and I symbolize the political determination to pursue time-honoured values which have always been important in the struggle for liberty... We will never be torn apart” (cited in Harries, 1993: 115).

⁵⁵ As a matter of fact, much of the violent conflicts erupted in Natal after 1984 following the formation of the United Democratic Front (UDF) in 1983, a black opposition movement against apartheid, which incorporated many anti-apartheid organizations and which challenged the IFP support among the Zulu population (Shapiro, 1997: 324). The UDF started to gain support in many townships around Durban, the largest city in KwaZulu and the ANC as well as COSATU (Congress of South African Trade Unions) attempted to present an alternative to the cultural traditions of Inkatha in Natal (Harries, 1993: 123-125) by using Zulu cultural markers as similar to the Inkatha. The self-proclaimed status of Inkatha as the main representative of black population was further eroded after the unbanning of the ANC, COSATU and UDF in early 1990 and the ANC’s key status in the national negotiation process. Moreover, Mandela had a much higher status among the black majority than Buthelezi (Jung, 1996: 48). In the transition process, the ANC also played the “Zulu card” and further affirmed its Zuluness though not Zulu nationalism in order to contain Inkatha’s nationalistic aspirations and challenge its monopoly over the issue (Jung, 1996: 49, 53; Piper, 2002). By doing so, the ANC tried to give the message that “being Zulu did not mean being Zulu nationalist, and that the ANC was a home for Zulu people, too” whereas the Inkatha organized Zulu nationalist resistance against a “Xhosa-dominated” ANC (Piper, 2002: 73-84). Here, it should be noted that Mandela is also Xhosa. The IFP, which was increasingly out-competed by the ANC, UDF and COSATU at the national level, therefore, sought to strengthen its power base in the provincial level, in KwaZulu homeland (Piper, 2002: 79-82).

⁵⁶ The Inkatha had been initially established with the ANC-in exile as an internal and complementary wing of the opposition movement (Jung, 1996: 48).

struggle (Harries, 1993: 114- 124).⁵⁷ However, his separatist demands were seen by the other black opposition movements as an obstacle on the transition to an egalitarian South Africa. The black opposition was divided mainly between these two parties and Buthelezi was held responsible by the ANC leaders of dividing black opposition against the white rule and thus, weakening the opposition movement. Buthelezi was also blamed by the ANC activists to foster ethnic divisiveness and he was criticized for his willingness to operate in the apartheid system (Jung, 1996: 48). Moreover, in contrast with the ANC vision of a united South Africa, Buthelezi's IFP sought an autonomous state in KwaZulu. The conflict between the ANC and IFP supporters in Natal constituted the most challenging regional issue in South African territory. In this province, high levels of political violence continued for a long time while between 1991 and 1992, thousands of people died in this battle (Harries, 1993: 123; Jung, 1996: 48; Simeon, 1998: 19).

As Mare notes, other anti-apartheid groups were also critical of Buthelezi's cooperation with the apartheid regime and alleged that the apartheid government was providing financial assistance and logistical as well as armed support to the IFP.⁵⁸ Buthelezi and the ANC leadership also had diverging views on the armed struggle against the apartheid government and the use of violence in this struggle. Buthelezi's ambition to become the main representative of the black opinion also increased the division in these two different camps of the black opposition movement. Buthelezi, being a former member of the youth wing in the ANC, was exiled from the party as a result of his ambition to establish a Zulu nation (Mare, 1993; cited in Irobi, 2005).⁵⁹ Meanwhile, the Inkatha and Buthelezi accused the ANC of being terrorist and communist while defining the UDF and COSATU, which are ANC-aligned organizations -as "ANC's surrogates" (Lowe, 1990: 398; Piper, 2002: 79)

⁵⁷ In the following years, the struggle between the IFP and the ANC over black leadership will transform as a competition over the process of post-apartheid state (Piper, 2002: 74).

⁵⁸ Biko explained the reaction of the other anti-apartheid movements against Gatsha Buthelezi as the following: "Buthelezi... speaks up strongly against apartheid, but today he is the governmentally pail leader of the Zulus... We oppose Gatsha. He dilutes the cause by operating on a government platform. Because of this, I see the danger of division among blacks" (Southall, 1981: 456).

⁵⁹ From Buthelezi's side, a negotiation between the ANC and the NP was surprising as Buthelezi believed that if the NP government starts a deal with a representative of the black population, it would be the Inkatha which would like to establish an autonomous entity in KwaZulu -a policy in line with apartheid's "separate development" policy. In this era, not many people thought that the NP would give the control of whole South Africa to the ANC (Shapiro, 1997: 317).

Apart from the need for armed struggle, Buthelezi and Mandela also differed in their views on the anti-apartheid sanctions and the future shape of the economic system in South Africa. The IFP was almost the only black opposition party to promote capitalism while opposing socialism (Lowe, 1990: 398).⁶⁰ The Inkatha also was against the imposition of sanctions to South African government from the very beginning but instead supported a strong political pressure by the international community. In Buthelezi's words, sanctions "have hurt most the people they purported to help -the black population" (Buthelezi, 1990: 27). On the other hand, in his various speeches, Mandela stressed the importance of the maintenance of sanctions and the dangers of the lifting up the sanctions before the complete eradication of the apartheid system. In one of these public speeches, Mandela stated that "the end of apartheid and the transformation of our country into a nonracial democracy will only become reality as a result of struggle, including the struggle represented by the international sanctions campaign" (Mandela, 1990b; Prokesch, 1990). However, in spite of all existent cleavages, the ANC saw the solution to the problem with the Inkatha to be political rather than constitutional and brought the party on the center stage in opposite with the marginalization of the right-wing (Steytler and Mettler, 2001: 102), the other South African ethnic group having a nationalist agenda.

2.2.3. Inter-Ethnic Rivalry

The Afrikaner identity is associated mostly with apartheid ideology. In the pre-apartheid era, the living standards of the Afrikaans-speaking white population were very low when compared to their English-speaking counterparts. The Afrikaner population even had to compete with the blacks for jobs. However, the apartheid system did initiate a positive discrimination program for the Afrikaner population. Because the Afrikaners benefited enormously from the existing system especially in

⁶⁰ Buthelezi was seen both by the apartheid government and by the international community as an anti-violent, anti-communist and a less radical alternative to the ANC. Buthelezi's status as the leader of the Zulu nation provided him internal and international recognition whereas the British and US funded projects directly through KwaZulu government. It is also argued that the NP government was secretly funding and training Inkatha units in order to attack the ANC adherents in Natal (Jung, 1996: 48). Therefore, in the initial phase towards transition, the NP government was more willing to cooperate with the IFP rather than the ANC.

economic manners, it is no surprise that they supported apartheid ideology (Vestergaard, 2001: 21). As racial categorization has been an important part of apartheid ideology, Afrikaner nationalists added an ethnic principle to this existing system and in due course, the concept of “Afrikaner” was attached an exclusive ethnic content (Vestergaard, 2001: 20). This rising nationalist sentiments among the Afrikaner population further increased the already existing divisions within South African society while also reinforcing black resentment.

In fact, the origins of Afrikaner nationalism can be traced back to the early clashes between the British and the Dutch settlers and the subsequent Anglo-Boer wars.⁶¹ The second war claimed the lives of about ten percent of the Afrikaner population. The discrimination of the British against the Afrikaners led a trauma among the Afrikaner population and the emergence of Afrikaner nationalism. The Afrikaners, for example, were restricted to use their own language at school and in public (Heribert and Kogila, 2005: 50-51). However, the use of Afrikaans was an important and indispensable part of Afrikaner nationalism from the very beginning. This language nationalism, thus, led the emergence of the Afrikaans Language Movement (Moodie, 1975: 47-48). Afrikaners were also economically disadvantaged against the dominance of Anglophone whites and were living mostly in rural areas. However, the surprising electoral victory of the Afrikaner Nationalist Party in 1948 general elections changed the status quo (the Afrikaners constituted 60 percent of the white voting population while English-speakers constituted 40 percent).⁶² The National Party inherited the informal segregation policy of its predecessor, the English United Party and replaced it with apartheid (Heribert and Kogila, 2005: 50-51).⁶³

Despite the fact that Afrikaner nationalism arose from the discriminatory policies of the British rulers, the idea of a Volkstaat has its roots in the discontent of

⁶¹ Remember footnote 46 on the divisions and following two wars between the Afrikaner and British on the domination of South Africa in the early years of British colonization.

⁶² Experts note that the defeat of Afrikaners in the Second Anglo-Boer War is the mobilizing factor behind the establishment of “an ethnically exclusive National Party” (Suzman, 1999: 108).

⁶³ Under this new legal framework of separate development, The Afrikaans-speakers and English-speakers were mostly united in order to establish a “white nation.” Two middle groups, Indians and coloureds were more advantaged in the new system when compared to the black population but as noted, they were only included to the political process in the early 1980s (Heribert and Kogila, 2005: 51-52).

the Afrikaners against the dissolution of the homeland policy by the NP government -supposedly voice of Afrikaner population- in mid-1980s. The Afrikaners supported the territorial segregation policy of the apartheid regime and proposed a separate Volkstaat where the Afrikaner population could settle (Vestergaard, 2001: 32). The desire to establish a separate homeland for the Afrikaner population and the territorial nationalist ambitions of the Afrikaners was an important bargaining tool for the white-right during constitutional negotiation process. It is interesting that the extreme white-right believed that the majority of the white population would soon see the dangers in the majority rule and support their cause. However, as will be analyzed under the section on negotiations, like the Inkatha, the white right also lacked sympathy outside their own constituency and then “ceased to be a serious force in South African politics.” They also comprised only 7,5 percent of the population (although 57,5 percent of the white population) (Shapiro, 1997: 318-319) which made them a non-strategic actor in South African future government.

The separatist demands of the two diverging groups and their national ambitions constituted a major source of conflict during the transition period which was resolved through inclusive methods. However, the major sources of conflicts lie in the legacies of the apartheid era. The country was ruled in line with this racial segregation policy known as apartheid which had adverse effects on the political, social and economic environment of the country until 1994. The black population who was excluded from the political process formed their own underground organizations practicing both violent and non-violent forms of struggle. However, starting from the 1970s, the apartheid regime experienced a legitimacy crisis and the South African government realized the necessity of a fundamental (constitutional/political) shift in South African politics in order to contain its isolation in world politics and to manage several additional internal problems. This explains the start of the negotiations between the NP and officially banned ANC leaders as well as other resistance movements in 1980s.⁶⁴ These intense negotiations led to the famous speech of De Klerk, the then leader of the NP, on 2 February 1990 which emphasized the need for a drastic change through negotiations and a national

⁶⁴ Bilateral talks between these parties had begun before the release of Mandela from prison (Jung, 1996: 48).

and democratic constitution-making process (De Klerk, 1990). The following negotiation process between the NP, ANC and various other political organizations also opened the door to the first multiracial elections in April 1994 following the unbanning of the political opposition parties after which Nelson Mandela became the first black president of the country, and the first democratic constitution of the country was adopted in 1996.⁶⁵ Such a transition from apartheid to a non-racial democracy was hailed as a “negotiated revolution” (Steytler, 2005: 36), a “miracle”, a “historic compromise” (Hamill, 2003: 1) or “one of the past century’s most important political events” (Inman and Rubinfeld, 2009).

2.3. CONSTITUTION-MAKING PROCESS: MAIN DRIVERS

Constitutions have a double aspect. They are the product of historical, cultural, and political factors which influence the form and success of constitutional design whereas constitutional provisions specify the competencies of political actors and provide them legally defined constraints and opportunities (Simeon, 2009: 242). Constitution-making process is crucial in order to design federal institutions. In this process, fears and distrust of minorities should be contained through the inclusion of federal principles in the constitution. It is also important in order to achieve a political compromise between the cultural majority who has the power to determine the type of regime and cultural minorities seeking recognition in the constitutional framework and participation in political arena (Fleiner et al., 2003: 50).⁶⁶ Constitution-making is also about making bets about the future as if certain institutions and rules will have the (desirable) effects (Simeon, 2009: 242).

1994 election of South Africa preceding the constitution-making process is considered as one of the most successful transitions to democracy and the adoption of a federal form of governance is evaluated as essential in this transition process

⁶⁵ Before the adoption of the Interim Constitution of South Africa in 1993 -a document which laid the foundation of the 1996 Final Constitution- South Africa had three constitutions: The 1910, 1961 and 1983 constitutions. The first South African constitution united four British colonies and thus, established the Union of South Africa whereas the 1961 constitution replaced the Union of South Africa with the Republic of South Africa. The 1983 constitution replaced the republican constitution and was superseded with the Interim Constitution.

⁶⁶ According to Fleiner et al., power-sharing or more specifically, federalism is one of the best means of achieving an institutional equilibrium between the majority and minorities (2003: 50).

(Inman and Rubinfeld, 2005: 39). However, such a transition did not occur overnight. It involves the inclusion many groups to the constitutional negotiations who gave up some of their demands while making great concessions. In this process, the determination of the included parties to settle the future shape of South Africa's government is also worth considering. South Africa's path to democracy following long years of apartheid rule was not easy and is the product of many interrelated (f)actors. Among them, the impact of the end of the apartheid regime is one of the highest importance partly because such a phenomenon opened the way for the constitution making-process in the country even though it did not directly led the inclusion of federal principles in the first democratic constitution of South Africa. The major drivers bringing the end of the apartheid regime is twofold: internal and international (f)actors.

2.3.1. The End of the Apartheid Rule

The international pressure on South African government including the UN Security Council resolutions taken by the international society in order to condemn the government for its discrimination policies against the black population and the following diplomatic, political and economic sanctions had a direct influence in the demise of the apartheid rule.⁶⁷ Especially in the last years of the apartheid regime, the

⁶⁷ In 1948, South Africa abstained from signing the Universal Declaration of Human Rights, a document through which the systemic racial practices within the Union could be condemned by the United Nations since the apartheid regime was in clear violation of the human rights provisions of the Declaration (Morsink, 1999: 26). Indeed, these human rights violations were debated in the first session of the UN General Assembly which adopted the Resolution 44, emphasizing the need to the conformity of South African actions to the Charter. Later on, the General Assembly adopted many other resolutions and memorandums which condemned apartheid policies and stated that "South Africa posed a threat to international peace." In spite of the South African argument that this was an issue of "domestic jurisdiction", the General Assembly created a commission in order to scrutinize the apartheid practices. The reports that the commission issued were followed by resolutions using a harsher language than the previous ones which simply condemned South Africa and called upon the country to abandon the discriminatory policies against the non-white population in the country. The following resolutions urged all countries to impose an arms embargo on South Africa, to strengthen this embargo, to terminate diplomatic and economic relations with the country and so on (Schifter, 1992-1993: 363-370). Apart from the UN effort, the activities of the OAU (Organization of African Unity, now African Union), and the Commonwealth including the documents adopted by these organizations like the Harare Declaration (1989) of the OAU Ad-Hoc Committee on Southern Africa and the Harare Commonwealth Declaration (1991) which emphasized the need to abolish apartheid and to establish a nonracial South Africa (See the related documents at: http://www.thecommonwealth.org/shared_asp_files/GFSR.asp?NodeID=141095 and http://www.constitutionnet.org/files/89AUG21_0.PDF). The efforts of international organizations on ending the

ruling South African government had lost much of its legitimacy not only in the eyes of the majority of South African population but also in the international arena. The literature elaborating the impact of the external (f)actors; i.e., the pressure of great powers, the sanctions particularly in the economic area and the withdrawal of a significant amount of foreign investment from the country in bringing about an end to this apartheid system is vast.⁶⁸ However, the role of these (f) actors in bringing an end to the apartheid regime cannot be explained without mentioning the internal dynamics of South African society. Even though the apartheid regime in the country was outmoded in an era when states were compelled to recognize equal rights of all citizens through firm means, many observers in academic community did not expect the end of the white majority rule in South Africa especially through such a peaceful transition (e.g. Friedrickson, 1995: 3; Hanf et al, 1981: 405, 419).

The internal factors bringing about the demise of apartheid is a part of a general process starting from the negotiations of the NP regime with the black opposition movements. As discussed, before the official end of the apartheid regime of the ruling National Party in 1994, the ANC and many other black organizations were unbanned, the legendary leader of the ANC, Nelson Mandela, was released and the National Peace Accord⁶⁹ was signed in 1991. These developments are the product of internal socio-economic and political factors. During the 1980s, the mobilization

racial discrimination practices and the apartheid regime in South Africa might be said to be very effective on producing results although initially some of these sanctions were applied reluctantly by the Western powers having strategic interests in the country. However, as will be elaborated later in the following paragraphs, economic sanctions had the least impact on facilitating the transition to democracy.

⁶⁸ This literature is highly divided on the assumed merits of sanctions while many scholars question their effectiveness in changing the behavior of actors in particular societies. One of the main arguments against the application of sanctions in targeted countries is that it is mostly the ordinary people who are disadvantaged from the outcomes of the sanctions not political leaders or governments (Some of the black opposition movements in South Africa, therefore, called for isolation as a political strategy) (Maloka, 1999: 178). Some scholars also question the effectiveness and contribution of sanctions in South Africa. Levy (1999) and Hufbauer et al (1990) for example, argued that the role of sanctions on bringing an end to the apartheid regime is highly exaggerated while, at the same time, contending that it is not economic sanctions imposed by national governments that damaged South African economy but instead, the actions taken by private actors such as financial institutions.

⁶⁹ The National Peace Accord was signed on September 1991 with the primary purpose of bringing an end to the political violence in the country (for the full text of the Accord, see: National Peace Accord. (1991). <http://www.incore.ulst.ac.uk/services/cds/agreements/pdf/sa4.pdf>, (26 December 2012). The Accord which opened the way for formal negotiations was signed by twenty-seven political parties, organizations and governments. See USIP (United States Institute of Peace) Special Report. (1993). South Africa: The National Peace Accord and the International Community. <http://www.usip.org/files/resources/sr930924.pdf>, (26 December 2012).

against apartheid increased by the formation of opposition organizations like the UDF and the COSATU which brought together many diverse groups in order to challenge the apartheid rule (Maharaj, 2008: 14). The activities of the black leaders and the effectiveness of the black opposition have been effective on the demise of apartheid (Levy, 1999). Another fundamental factor in bringing the end of the apartheid is related to the fact that this system lost its legitimacy in the eyes of its two close supporters; Afrikaner church leaders and academics. The attack of these two groups on apartheid is very significant in the sense that they both were among the main advocates of the apartheid regime (Giliomee, 1995: 90). Starting from the early 1980s, the mainstream media also started to criticize the apartheid system while portraying the ANC and even its armed activities in a more sympathetic manner (Maharaj, 2008: 15). Here, the shift in the NP strategy on negotiations under DeKlerk is also worth considering. In negotiations -which should be about power-sharing in DeKlerk's view- the NP did demand a constitutional settlement to preclude a likely domination of black majority as opposed to P.W. Botha⁷⁰ who solely sought the survival of Afrikaner and white population (Giliomee, 1995: 93). The growing economic costs of the apartheid made the system harder to sustain. Starting from the 1960s, there emerged a need to occupy the intermediate positions in South African economy by the black population because the ratio of the whites to the overall population started to gradually fall and a shortage of white manpower developed. Moreover, there was a crisis of unemployment among the black population while the educated blacks demanded higher positions in the economic and political spheres (Giliomee, 1995: 86-89; Levy, 1999).

The internal economic pressures were coupled with the restrictions on trade, long-term credits and financial restrictions including disinvestment both by national governments and multinational corporations. South African government was exposed to embargoes in the import of many strategic products including oil for long years. Especially disinvestment from critical industries has played a role in the socio-political transformation of the country. In order to address these significant economic

⁷⁰ Botha is the former prime minister (1978-1984) and president (1984-1989) of South Africa who initiated the liberalization process in South Africa in the 1970s; however, with the 1983 constitution and tri-cameral legislation which excluded the black population from the political process, Botha frustrated the blacks (Huntington, 1991: 610). DeKlerk took bolder steps than his predecessor in opening the way for a more inclusive negotiation process.

problems, a new political framework which would attract foreign investors was necessary. In addition to the afore-mentioned domestic dynamics which led the ruling NP regime to consider a radical change in the political system, the support of international actors on South Africa's transition to democracy is important. In the last years of the apartheid regime, the isolation of South Africa in sporting, scientific and academic circles increased. Diplomatic isolation of South Africa also increased as many countries broke its relations with South Africa and country's membership in various international institutions was suspended. Racial discrimination policies of the Union of South Africa were subject to harsh criticism of international community. The efforts of international organizations such as the non-Aligned Movement, the OAU, the Commonwealth of Nations and notably the United Nations (UN) together with diplomatic, military, economic and financial sanctions imposed on South Africa played as a catalyst in bringing about the transition to a democratic and multiracial state⁷¹ (Crawford, 1999; Ebrahim, 1990: 30; Giliomee, 1995: 90; Klotz; 1999; Mangaliso, 1999)

Many South African black leaders including Nelson Mandela considered these sanctions as playing a very important role in South Africa's transition to democratic rule. It is argued that the sticks and carrots policy of the external environment facilitated negotiations. Moreover, diplomatic and ideological sanctions have become more effective than economic ones because the white population sought international legitimacy through acceptance in the Western world and transition to democracy was the key in this process (Giliomee, 1995: 90).⁷² It is also

⁷¹ The South African officials always insisted that the sanctions had negative effects on South African society than was expected by the imposer countries whilst the opposition movements sought more pressure on South African government by the international community. In mid-1980s, Botha criticized the imposition of sanctions by the Reagan administration and said: "Whatever the intention, the effect is punitive. It is a negative step. Cooperation should not be based on coercion. Such actions diminish the ability of the United States to influence events in Southern Africa" (Washington Post, 10 December 1985, A12, cited in Hufbauer et al, 1990: 237).

⁷² Hufbauer et al note that post-1985 sanctions cost South Africa less than 1 percent of the GNP (gross national product) (1990: 113). Here, it should also be considered that Western allies of South Africa, namely, Germany, France, USA (United States of America) and the UK (United Kingdom) saw the country as an important strategic partner in Cold War dynamics. These countries also had important economic and commercial concerns and substantial investments in South Africa. In this period, especially the US government were concerned a South African retaliation against sanctions such as the forming of an alliance with the Soviet Union which could eventually increase Soviet influence in the region. There was also the fear that in such a case, South Africa could restrict the export of strategic metals and minerals to the Western world but prefer the Soviet Union as a new trade partner. However, the changing post-Cold War environment diminished the utility of the South African

important to note that the end of the apartheid rule and drafting of a new constitution through an all-actors involvement coincides a time period which is defined by Huntington (1991) as the third wave of democratization when authoritarian regimes were replaced by democratic ones in many parts of the world between the years of 1974 and 1990.⁷³ It is therefore no surprise that in this period, the international environment favored transitions from autocracy to democratic rule in countries including South Africa. As is seen, the ruling National Party was under pressure arising from many interrelated internal and international (f)actors to end this decades-long racial discriminatory order.

The main opposition movement in South Africa, the African National Congress also had strategic interests to start official negotiations with the ruling NP government. In order to understand the major ANC concerns, it is important to consider that the Soviet Union and some neighboring African states providing political support and important sources of funding to the ANC urged to negotiate. Levy adds the collapse of the Soviet Union to the (f)actors contributing to the end of apartheid (1999: 415) since with the demise of the Soviet Union, the ANC lost this significant source of financial and technical assistance. In this process, the statement of the Bush administration that it would force both the blacks and whites in order to provide a fruitful negotiation and it would criticize the first party to leave from this process was also important. Meanwhile, both the ruling NP and the opposition had realized that negotiations was necessary not least because the developments could not remain as they were (Giliomee, 1995: 90-91; Maharaj, 2008: 17).

South African federalism is the outcome of a process of constitution-making through a series of negotiations involving the representatives of different segments of the population including the ANC and the NP. The role of leaders and the determination of different groups in bringing an end to the apartheid rule and build a democratic and nonracial South Africa have been influential in shaping the

government to these Western countries who were under pressure both from their own citizens and from international community. Various public campaigns against the increasing repression in South Africa have been implemented in the US and European countries (Hufbauer et al, 1990: 113; Maharaj, 2008: 16).

⁷³ According to Huntington, the third wave of democratization began in 1974 with the end of the Portuguese dictatorship and was followed by a series of democratic transitions in nearly thirty countries in Europe, Asia and Latin America. In his analysis, most of these incidents were not firm initiatives to start transition to democratic rule but together paved the wave for a worldwide movement to democracy (1991: 3-26).

constitutional negotiation process. The following section, therefore, will focus on the role of political élites who facilitated the negotiation process leading the inclusion of many federal principles to the new South African constitution. This section will also provide important insights to explain the contribution of the federal applications to the conflict accommodation or management in South African society. The above-discussed internal and international (f)actors contributed to the process of an inclusive negotiation through the engagement of nearly every segment of South African society when the change was inevitable. In this process, the role of political élites is important in bringing about a new constitution through the consent of various groups in South African society.

2.3.2. The Role of Political Leaders

Policy choices and preferences of the incumbent governments and the leaders of opposition groups or parties are important in reducing tensions between ethnic groups and in effectively managing conflicts. As Lijphart puts it, a consociational democracy can be successful if élites have the ability to accommodate the interests and demands of the subcultures and to join in a common effort with the élites of adverse subcultures. In this process, political leaders should indicate their commitment to the maintenance and stability of the system. Lijphart argues that “all of these requirements are based on the assumption that the élites understand the perils of political fragmentation” (2008: 32). In other words, adverse parties should prefer to find a settlement rather than continuing the fight (Kriesberg, 2007: 471) in their efforts to manage conflicts. The role of state élites in constitutional negotiation process is also important since the élites, at least in theory, is assumed to represent the views of the masses. Elite cooperation, therefore, might bring greater involvement in the constitution-making process. The success in the negotiations on constitution-making is, thus, highly related to the commitment of South African élites on national cohesion and on the effective management of the existing cleavages.

Under the tri-cameral legislature structure introduced in 1983 when P.W. Botha was the National Party leader and prime minister of South Africa, the white

population was represented notably by the National Party (NP)⁷⁴, Conservative Party (CP) and Democratic Party (DP) in the House of Assembly. The CP, the major rival of the NP represented the majority of the Afrikaner population and also some right-wing extremist organizations demanding a form of racial federalism; self-determination for the Afrikaners who wanted to receive their own state (Merwe, 1990: 38; Steytler and Mettler, 2001: 95; Viljoen, 1990: 44). The South African Labour Party, the main representative of the coloured population in the House of Representatives, embraced the idea of devolution of power through a non-racial federal South Africa. The Solidarity Party and the National People's Party, both of which represented the Asian/Indian population in the House of Delegates advocated the end of the apartheid regime. The afore-mentioned representatives of the coloured and Asian/Indian population were willing to form an electoral alliance with the NP but not with the ANC in the pre-1994 election period (Marasinghe, 1993: 831). During this time, the black population was not formally represented in the legislation bodies of the country but later, would be represented by the ANC and the IFP. While the former had coalition with South African Communist Party (SACP) and the Congress of South African Trade Unions (COSATU), the latter exclusively claimed to represent the Zulu people (Marasinghe, 1993: 831). As is emphasized by the President of IFP and Chief Minister of KwaZulu, Mangosuthu Gatsha Buthelezi, the Inkatha wanted a multiracial and multiparty society not a black dictatorship whilst demanding an extensive provincial autonomy of KwaZulu Natal where the IFP held the support of the majority of the population (Buthelezi, 1985; Buthelezi, 1990: 26; Steytler and Mettler, 2001: 95).

South Africa's political spectrum also included some radical black parties including the Pan Africanist Congress of Azania⁷⁵, the Azanian People's Organization or AZAPO, the South African Students' Movement and the Black Peoples' Convention. All of these parties called upon the abolishment of apartheid. At the other side of the political spectrum, there were some radical Afrikaner

⁷⁴ Shapiro notes that in the early 1990s, the NP transformed itself into a non-ethnic party as the party leaders believed that they had to adapt to changing circumstances or fade away. This explains how the party could obtain half of its votes in the 1994 elections from the non-white population (1997: 324).

⁷⁵ Pan Africanist Congress who sought national liberation in a post-apartheid South Africa through a nonracial constitution, was also against power-sharing for the belief that such an arrangement would provide the white population the necessary means to use a veto right on all legislative issues (Ebrahim, 1990: 28-29).

apartheid-supporter groups like the Afrikaner-Weerstandsbeweging and the Boere-Vryheidsbeweging who were willing to establish a “Boer Nation” (Marasinghe, 1993: 832). The diverging ideas of the leaders of these parties especially on the future shape of the government and their demands on the adoption of federal principles have been very influential in making of the new South African constitution.

The influence of South African political leaders in managing conflicts in the years following the official end of the apartheid system was briefly discussed under the previous section. As Haysom notes, the participants and the way that they participate in the constitution-making process have a definite impact on the federal outcome (2003: 229). In South Africa, the good leadership of F.W. DeKlerk and Nelson Mandela has been very influential in the transition to democracy. As Irobi notes, “both leaders were able to forget the past and move toward” (2005). After gaining presidency in late 1980s, DeKlerk realized that negotiations were essential. This made him to start the informal and following formal negotiations with the opposition groups, to unban their parties and release their leaders. He acknowledged that South Africa needed a radical constitutional and political change in order to peacefully manage conflicts that have divided the country for centuries. He, therefore, opened the way for such a transition. On the other side, Mandela and his party, the ANC -the principal and the oldest opposition group in South Africa⁷⁶- could now constitute the majority which provided them to easily hold political power not by using force but through fair and democratic elections. However, albeit enjoying the majority, the ANC accepted the sharing of political power and limitations on its own power particularly through the inclusion of federal principles into the new constitution.

Mandela, accepted by some academics as “the great reconciler” was ready to forget the past injustices and displayed no bitterness towards the leaders of the former apartheid regime –despite his 27-years of imprisonment. He is applauded for not pursuing revenge against his former oppressors but instead, stressing the importance of forgiveness in order to provide a true reconciliation and to build a non-

⁷⁶ Being formed in 1912 to oppose the white rule in South Africa, the ANC is also the oldest African liberation movement.

racial South Africa. Graybill notes that after the victory of the ANC in 1994 elections, Mandela's invitation to his former adversaries to his inauguration as president was a surprise especially for those who were still not certain about his real intentions⁷⁷ (1998: 43 and 2002: 19-20). In his speech announcing the ANC victory, Mandela declared that: "We are all South Africans, we have had a good fight. But now this is the time to heal old wounds and to build a new South Africa."⁷⁸ Such symbolic gestures indicate Mandela's willingness to build a South Africa where former enemies can now peacefully coexist. As for DeKlerk, the task was harder. It was important to make concessions without losing its electoral support especially from the separatist Afrikaner population. However, the NP's negotiation position, at least initially, was mostly influenced from the demands of the Afrikaner population.

Despite all the good intentions of both leaders and their willingness to enter into negotiations, there were internal splits in opinion within the ruling NP and the main opposition party, ANC on the main conditions for negotiation. Both DeKlerk and Mandela had an interest to help each other in order to deal effectively with the extremists on their parties. There was a white opposition against DeKlerk in right-wing, "hard-liners" –some of these groups sought for an Afrikaner Volkstaat- and a militant left-wing opposition within the ANC forcing Mandela not to negotiate with the Inkatha and to meet Buthelezi⁷⁹ (Huntington, 1991: 160). Each side had to consider the demands of these opposition groups within their parties so as to maintain their support and loyalty. Negotiations were sometimes interrupted when one party decided to withdraw from the process, however, as the negotiations proceeded, the conservatives in the governing coalition as well as radical groups in the opposition pressured for success in the negotiation process. Such developments led the parties to become more willing to compromise and reach an agreement while, at the same time, the oppositions within each side criticized their parties for

⁷⁷ Mandela organized various other events to bring all segments of the South African society together including the invitation of his former adversaries to join him in lunch. The people Mandela had invited to lunch include the jailer assigned to him in his imprisonment on Robben Island, the prosecutor who argued for the death sentence for Mandela and the wives of former senior apartheid leaders (Graybill, 2002: 19-20).

⁷⁸ Mandela, N. (1994). Speech by Nelson Mandela Announcing ANC Election Victory. <http://www.anc.org.za/show.php?id=3658>, (20 May 2012).

⁷⁹ Meantime, Buthelezi's Inkatha harshly criticized the secret bilateral talks between the NP and the ANC and when the ANC finally accepted a deal with the NP in late 1992, this development was denounced by the IFP as a betrayal by the NP (Giliomee, 1995: 97).

conceding too much (Huntington, 1991: 160-161) or for betraying their interests. Even though Mandela and DeKlerk did not have sympathy towards each other, they both made crucial concessions after the formation of the national unity government in 1994 as part of the constitution-making process. DeKlerk dropped his demand of a white veto right over black majority rule and Mandela gave up insisting on a strong central government while adopting many federal principles including provincial autonomy. In Gray's words, both leaders then sold it to their followers (Gray, 1994: 54, cited in Spear and Keller).

In South Africa, another important factor in the conflict management process is that the constitution drafters sought the inclusion of all groups in the constitution-making process. As Henrard notes, especially the ANC made several concessions in providing such a broad participation and tried to persuade all parties to take part in the 1994 elections (2002: 30). The major claims of the different groups had been effective in shaping the federal provisions in the final constitution. However, it was mostly the leaders of the ANC, the most powerful party representing the majority of the population who shaped the constitutional outcome. Moreover, in the following years of initial negotiations, many of the federal promises in the Constitutional Principles (CPs) or in the interim constitution was included to the final constitution by moderating their content. For example, the claims of certain ethnic minorities on self-determination or provincial autonomy were later added to the 1996 Constitution in a somewhat very different manner. The demands of the right-extremists on the recognition of their community rights and a Boer nation was tried to be satisfied through the establishment of a Volkstaat Council (This will be considered in turn in the following chapter). The inclusion of the Inkatha to the constitution process was also crucial. The results of 1994 elections indicated the necessity of Inkatha's participation in the constitution-making process. The IFP had formally declared that it would not participate in the 1994 elections while at the same time, continued to politicize its supporters in order to gain further concessions from the ANC. The result was a mediation process which provided the party's decision to compete in the democratic election process just one week before the elections (Hamilton and More, 1994 cited in Southall, 2000: 151). While the Inkatha only signed the interim constitution and joined the elections at the very last minute, it was always been an

uncertain participant in the constitutional negotiation process (Simeon, 1998: 19). The first multiracial election of South Africa brought a 50,3 percent victory to the IFP in the provincial election. Such a great majority could be anticipated by the national leadership who now being obliged to provide the IFP's involvement in the constitution-making process (Hamilton and More, 1994 cited in Southall, 2000: 151).

South African leaders had diverging ideas both on the need for the inclusion of federal principles to the new constitution and on the conduct of the related process. During negotiations, especially the ANC, South Africa's new élite, effectively used federal promises as a problem-solving device and manage the existing conflicts in the society. The ANC wanted the participation of the representatives of all groups to the constitution-making process in order to provide legitimacy of the process and ensure long-term peace and stability. As discussed, the idea of federalism and federalist promises were central in the peacemaking and reconciliation process. Actually, the process began "with the promise of a federal option" while the interim constitution itself was a peace pact bringing different segments of the South African population (Steytler and Mettler, 2001: 104). As is noted by Gilimoe, "progress towards democracy has occurred in the form of compromises by contending élites unable to impose their will unilaterally" (1995: 101). The interdependence between the political élites made the transition to be a more peaceful process than many of the experts as well as politicians had anticipated. The following chapter which will analyze the conduct of negotiations will also mention the impact of political leadership in the conflict management process both in the last years of the apartheid regime and in the two years of constitution-making. The underlying reasons behind the main tensions during the constitutional negotiation process and the strategies to contain these conflicts will be the focus of the third chapter.

CHAPTER THREE

NEGOTIATIONS AND CONFLICT MANAGEMENT IN SOUTH AFRICA

Constitution-making is not a constant process but rather it involves many interrelated elements and actors. The main determinants of the constitutional change include the broader set of socio-economic, historical, political and cultural contexts of particular societies. As Irobi (2005) points out, constitutional conflict management mechanisms have the greatest potential to preserve lasting peace and to manage ethnic conflicts. It was true for South Africa where the management of ethnic and racial strife is the main underlying motive in adopting federal principles during constitution-making process. As noted, South African 1996 Constitution was made possible through a series of negotiations whereas the conduct of these negotiations and its products determined the rules of conflict management and the adoption of federal principles.

3.1. NEGOTIATION PROCESS AND CONFLICT MANAGEMENT

South African transition from minority rule to democracy through a negotiated new constitution leading a radical change in the entire political system is defined as “a success story of both democratization and conflict resolution” (Bastian and Luckham, 2003: 6). Here, it should be remembered that South African constitution is the product of a compromise between political actors representing different ethnic and racial groups many of whom were satisfied from the constitutional framework (Bastian and Luckham, 2003: 6). In the constitution-making process, an “all-parties involvement” was a prerequisite in order to ensure the legitimacy of the constitution. Such an inclusion was also important to preclude the further conflicts which may occur if an important part of the society were not satisfied from the constitutional provisions and were not convinced that their rights were included in the new constitution. This reminds the argument of Powell that successful negotiation process requires to ensure that no party should feel excluded or disadvantaged in the negotiations. As is noted by Simeon, the engagement of various groups at every stage of the constitution-making process has thus provided a

powerful legitimacy for the constitution (1998: 20).⁸⁰ However, before its adoption, a transitional constitution laid down 34 Constitutional Principles (CPs) with which the final constitution had to comply.⁸¹ The interim constitution was prepared following the Congress for a Democratic South Africa (CODESA) talks representing the first step on national constitutional negotiations⁸² and came into force on 27 April 1994. However, the interim constitution was planned to last for only two years and then would be replaced by the new constitution which was to be drawn up by a Constitutional Assembly (CA).⁸³

From this time to the adoption of the final constitution, the interim constitution was the governing institution in South Africa. Under its provisions, South Africa would be ruled by a consociational, power-sharing Government of National Unity (GNU) at least within the five years of transition period. The GNU, whose aim was to create a new constitution for South Africa, reflected the essentials of a grand coalition, one of the four principles of Lijphart's consociationalism. After the ANC victory in 1994 elections, Mandela started to lead the GNU, a coalition of South African parties receiving more than five percent of the total vote were given seats in cabinet in proportion to their strength (Brooke, 2005: 17; Giliomee, 1995: 97). Such a power-sharing arrangement provided the loyalty of diverging groups to the new order which would have felt excluded from the process and exposed to the domination of the majority ANC government (Southall, 2000: 156). By participating in this coalition government, diverging parties did not only have a voice in the government but they were also given the right to determine the rules of the future government.

⁸⁰ The conditions providing this relative success story will be examined in detail within the following pages, however, here, it must be noted that the constitution-making process in South Africa was internally driven and the role of international (f)actors in shaping this process is minimal.

⁸¹ For the whole list of the constitutional principles, see Schedule 4 of the Interim Constitution at <http://www.info.gov.za/documents/constitution/93cons.htm#SCHEDUL4>. As will be analyzed in more detail within the following pages, the CPs reflected the desires of two opposing sides; the central government advocates (particularly the ANC) and sub-national autonomy adherents (especially, the NP, IFP and the Afrikaners) (Brooke, 2005: 18). Moreover, the principles were regarded to be critical in receiving "the soon-to-be minority largely white parties" (Simeon, 1998: 1).

⁸² CODESA was formed in 1991 following the National Peace Accord in order to forge transition to democracy and to set out the new constitution through the involvement of South African parties representing different groups and interests.

⁸³ The Constitutional Assembly was created by the multi-party Negotiating Council, the representative negotiating body, on the basis of the constitutional principles.

The context of Constitutional Principles was important as the Constitutional Court would certify the new constitution only if it complied with the original 34 principles. As Sarkin notes, the drafting of the 1996 Constitution can be divided into three time periods: a) negotiations from May 1994 to the May 1996 deadline for finalizing the constitution b) the first Constitutional Court certification process which started in May 1996 and ended on September 1996 when the court refused to certify the text; and c) the second round of negotiations in late September 1996 and October 1996 which generated the certification of the text by the Constitutional Court on early December 1996 (1999: 69-70). In the initial phase of negotiations, the entrenchment of federal principles to the IC was imperative to provide the consent of all parties apart from the ANC. However, the inclusion or exclusion of these principles into the interim or permanent constitution led intense debates between different parties. This was followed by the failure of roundtable negotiations at the CODESA and the blame was put mostly on the IFP's lack of interest in the success of negotiations and "obstructionist" white-right seeking territorial ambitions whereas the NP and the ANC were dedicated to the establishment of a democratic South Africa. The attitude of the IFP and the extreme-right brought about the marginalization of these parties in the following negotiation process (Shapiro, 1997: 317-318). The Inkatha used its "Zulu credentials" in order to increase its profile in the negotiation process (Jung, 1996: 48) and thus, withdrew from the CODESA in order to protest the exclusion of the Zulu King Zwelithini in the process (South African History Online). Buthelezi's attitude was certain that the king had to represent the Zulu people (Jung, 1996: 48). However, this brinkmanship of Buthelezi (Piper, 2002) partially explains why the Inkatha was seen by the NP government and the ANC as an obstacle on the future of negotiations. This led the start of secret bilateral talks between these latter two parties.⁸⁴

In late 1992, the two negotiating parties reached an agreement. The ANC accepted a power-sharing system for five years -which laid down the basis of the GNU- an interim constitution which would be drafted by the inclusion of all parties

⁸⁴ Piper further argues that the fundamental reason behind the marginalization of the Inkatha from the constitutional negotiation process is the perception of the ANC and NP leadership that they had the popular and institutional power to make the negotiations work. The IFP, therefore, sought to show to these two parties that it also enjoyed enough power to be considered as an important partner in the negotiations through the "disrupting of ANC/NP amity" (2002: 83).

and which included bill of rights (an NP demand), elections which would be held for a constituent assembly (an ANC demand) and which would also serve as an interim government (an NP demand) for five years and a substantial devolution of power to the provinces. However, this agreement between the NP and the ANC was denounced by Inkatha as “a betrayal by the NP of the negotiating strategy they had shared.” The party also called for a referendum on self-rule in Natal and refused to participate in the following 1994 elections, conducted an anti-election campaign in Natal with the hope to interrupt and derail the negotiation process if their demand of self-rule was not met (Giliomee, 1995: 97; Piper, 2002: 74; Shapiro, 1997: 317-318).

This was not all. When the ANC and the NP finally agreed upon a date for the election at the Multi-Party Negotiating Council, not only the IFP but also some white right-wing parties including the CP and the Afrikaner Volksfront (AVF) as well as the governments of Ciskei and Bophuthatswana homelands boycotted the council, withdrew from the negotiating process and later formed the Freedom Front (FF). The IFP even threatened a civil war before the 1994 elections. Nevertheless, in 1993, Multi-Party Negotiating Council endorsed the decisions taken by the ANC and the NP a year before (Giliomee, 1995: 97; Steytler and Mettler, 2001: 94). The ANC, seeing the bluff of the IFP pushed ahead the election date of 27 April and left the IFP with the choice between participating to the elections and boycotting it (Piper, 2002: 84). The Inkatha who found itself marginal in the negotiation process later decided to follow a quite different strategy in order to get involved in the process that it was excluded and made the decision to participate the April 1994 elections in the last minute. Thus, starting from the 1990s, the power struggle between the ANC and the IFP moved from the territorial dimension to the institutional dimension with the official negotiation process on the type of the post-apartheid state. In other words, the competition slipped from the provincial basis to the national. From now on, the focus of the ANC-IFP rivalry was no longer about the leadership of black opposition movement against the apartheid regime but the content of the post-apartheid state (Piper, 2002: 76-82).

Another motive behind this changing attitude was the secret deal between the NP and the Zulu king Zwelithini who insisted on the establishment of a Zulu

kingdom in Natal prior to this secret talk.⁸⁵ Presumably taking the approval of the ANC, DeKlerk transferred three million acres of land to Zwelithini's control in order to gain his support and divide the collaboration between Buthelezi and the Zulu king. Within the process, Zwelithini abandoned not only Buthelezi but also Zulu nationalism. The white-right also tried to sabotage the elections by supporting a black homeland leader in Boputaphuswana who opposed the elections (Piper, 2002: 74; Shapiro, 1997: 317-318). The subsequent negotiations was, thus, a bargaining process in order to find a middle way between the diverging claims on the future shape of the government of the so-called centralists and federalists. Federalism is indeed a bargaining process.

3.1.1. Drawing the Borders: Centralism versus Federalism

The first chapter noted that pre-negotiations may precede negotiations as in the case of South Africa. For example, in order to enter negotiations, the NP asked the ANC to renounce violence whereas the latter demanded the release of political prisoners (Huntington, 1991: 160). However, these issues did not occupy priority in the negotiation process but the real debate was on a more crucial one: During the constitutional negotiations, two rival groups propounded diverging claims. On the one hand, the adherents of federalism, particularly the formerly ruling NP, asserted that drawing lessons from the past, the new constitution should include provisions guaranteeing a greater dispersal of powers which could provide greater democracy while on the other hand, the centralists, notably the ANC and its supporters sought a powerful centralized government in order to carry out the transformation process (Steytler, 2005: 37). It is therefore no surprise that the debate on federalism or the adoption of any other form of power-sharing arrangement in South Africa was an important part of political negotiations not only by virtue of the concerns of some particular groups against the ANC rule but also because of the suspicions of many ANC politicians who believed that federalism contradicts with the idea of an undivided South Africa (Hopper, 2008: 5). The debate on the form of the new South African state, therefore, was a contentious issue between the parties having diverging

⁸⁵ Preceding this bargain, Zwelithini also declared that the South African Interim Constitution was "not predicated in our self-determination" (Zwelithini, 1994 cited in Piper, 2002: 73).

claims and interests in the entire period of negotiations. In this period, the federal solutions offered in order to mitigate the inter-group tensions provided the most essential conflict management strategy. Especially the ANC made several concessions in order to make the new constitution as inclusive as possible.

One important reason behind the concerns and suspicions of ANC leaders, - who were motivated to create a unitary non-racial South Africa⁸⁶ -particularly through the rejection of the primacy of ethnic or racial identities- on federal arrangements is related to federalism's identification with the apartheid era and the afore-discussed federal-like initiatives taken in this period as the creation of the bantustans and the related separate development policies of the apartheid regime.⁸⁷ During the NP governance, the legitimacy of the apartheid policy was provided through the granting of self-determination for particular ethnic groups. Both the concept of self-determination and federalism based on ethnic grounds, therefore, had negative connotations in post-apartheid South Africa. As is noted by Marasinghe, the ANC did not want South Africa to be divided along racial, regional, ethnic or tribal grounds by the creation of federal states on the basis of ethnicity. The ANC leaders also believed that the establishment of ethnically ascertained federal states would further increase tribal tensions and conflicts as the four homelands and six self-governing territories which were based on ethnic or tribal lines socially destabilized the country (1993: 848). The previously-discussed historical conflict with the Inkatha especially in KwaZulu based on ethnic differences may also be assumed to increase the suspicion of ANC leaders on the use of ethnicity as a part of the bargaining

⁸⁶ African National Congress. (1993). A Bill of Rights for a New South Africa. Preliminary Revised Text. <http://www.anc.org.za/show.php?id=231>, (5 December 2012). Mandela's determination on the establishment of a democratic and nonracial South Africa, which requires a mass struggle in his view, can also be observed in his *No Easy Walk to Freedom* (1990) which was first published in 1965. In this work, Mandela defined the respect for diversity as central to the ANC's political stance. The armed struggle of the party aimed the establishment of a new South African "government of the people, by the people and for the people" (Mandela, 1992: 88). Mandela also epitomized the following process as a "struggle to ensure that the rights of every individual are guaranteed and protected through a democratic constitution, the rule of law, and an entrenched bill of rights, which shall be enforced by an independent judiciary as well as a multiparty political system" (Mandela, 1990a). Mandela was also conscious of the dangers that the reinforcement or politization of ethnic or racial differences could create further conflicts in a deeply divided society like his own. He, therefore, emphasized the need for a united South Africa and endeavored to build a new country where ethnic and racial politics would lose their ground.

⁸⁷ Therefore, not only the ANC, but also other major African movements opposed the use of ethnic differences for political purposes which could enhance the divisions amongst the black population.

process.⁸⁸ The ANC which denounced ethnicity also perceived federalism as a means to continue apartheid regime and rejected any artificial federation or any effort that would weaken the power of the central state authority (Marasinghe, 1993: 851). Meanwhile, the NP and IFP were seen as part of the apartheid state (Giliomee, 1995: 102).

The ANC, having an anti-ethnicity position especially in the 1980s and early 1990s also saw federalism as a strategy of the NP to prevent black majority rule and to create a separate Volkstaat for the whites. Self-determination on ethnic lines evoked the apartheid strategy which divided the South African population along ethnic grounds and some groups including the ANC thus perceived it as an attempt to sustain apartheid's privileges. (Henrard, 2002b: 30; Steytler and Mettler, 2001: 93-94). This socio-historical context explains why the ANC leaders did not support the federal idea from the very beginning (Burgess, 2012: 8; Henrard and Smis, 2000: 28).⁸⁹ The ANC leaders were also historically in favor of a unitary state on the grounds that only a powerful centralized state could provide the necessary resources to resolve socio-economic underdevelopment particularly in certain regions and could help to contain the potential conflicts based on racial and tribal differences. The ANC leaders thus viewed that change must be implemented from above by the instruments of the state. This understanding was then equated by the party with the centralization of bureaucratic powers (Heller, 2001: 157; Simeon, 1998: 2). The association of the Afrikaner nationalism with the apartheid state also influenced the ANC concerns that any kind of ethnic/nationalist agenda might jeopardize national integration. The ANC seniors, therefore, opposed the idea of constructing identity through ethnic differences by the determination of precluding apartheid-like divisions.

In contrast with the ANC leaders whose priority was the nation-building and economic restructuring of the country, other political forces including the NP, some extreme Afrikaners and the IFP sought a restriction against a likely majority rule and defended the adoption of federal principles although in varying degrees. Moreover,

⁸⁸ Together with the NP, the ANC was the key actor in the negotiation process; however, many other black opposition movements also embraced a non-racial, non-ethnic and all-encompassing African nationalism.

⁸⁹ These concerns also explain the unwillingness of the ANC in the constitution-making process in ceding much power to provincial and local governments.

many feared that the ANC rule would bring discrimination against previous oppressors (Hopper, 2008: 1; Simeon, 1998: 2). Inkatha's power base was at the provincial level (Jung, 1996: 50) and while the party was only strong in one region, it lacked any political and thus, electoral support from the other regions in South Africa. As discussed, the majority of its members were from one ethnic group. The party, therefore, sought a political system organized around constituencies based on ethnicity/race since regional decentralization was the only way for the Inkatha to sustain its local power (Lowe, 1990: 400).

Another concern of the Inkatha was a potential revenge of the ANC government from the Zulus particularly by virtue of the party's support for the National Party during the apartheid era. The IFP also feared the ANC domination in the future and thus advocated devolution of power, proportional representation and a strong decentralization. One of the major claims of the party is the secession of KwaZulu⁹⁰ from South Africa (Marasinghe, 1993: 833, 850-851). The IFP even wanted South Africa to be called the "Federal Republic of South Africa" (Egan and Taylor, 2003: 104).⁹¹ Along with other concerns like the role of traditional leadership, the major concern of the IFP was the provincial self-determination which led the party to boycott several negotiations and to withdraw from the negotiating process at one stage. Buthelezi favored federalism which, in his view, could provide equality between the blacks and whites and a balance of power between federal states as the only solution to the political problems within South African society (Buthelezi, 1985: 2-4; Temkin, 2003: 154).

⁹⁰ KwaZulu-Natal is made of the province of Natal and homeland of KwaZulu where the majority of the population was the Zulus and its related tribes.

⁹¹ The name of the Natal province was later changed as "KwaZulu Natal" in order to meet the demands of Inkatha (Steytler and Mettler, 2001: 96-97). However, it is interesting that in 2006, Zulu King Zwelithini called for a change in the name of the province to KwaZulu by dropping Natal from the province's name. It was argued by other experts that Natal was a foreign name imposed on the province. The name also reminded colonial times because Natal was a colonial name meaning Christmas Day in Portuguese and coined by Vasco da Gama. The earlier name changes of the provinces were emphasized as a means of justification. Pan Africanist Congress also supported the renaming of KwaZulu-Natal as KwaZulu by arguing that "the current name is associated with suffering and humiliation" because many Africans died in their fight against colonialism. In reaction to Zwelithini's suggestion, the ANC's provincial spokesperson, Mtholephi Mthimkhulu said in KwaZulu-Natal that the name change was not a priority but accelerating development and service delivery was (Khumalo, 2006; Mail & Guardian, 2006; Webb, 2006). Ch. 6 104(2) of the Constitution allows provincial name change if the provincial legislature request Parliament to change the name of the province by a resolution adopted with a supporting vote of at least two thirds of its members.

During negotiations, different parties called for the devolution of power, political power-sharing arrangements or the exercise of self-determination right for various reasons. The white population who are represented notably by the National Party feared that if a black dictatorship is established, they will be exposed to racial discrimination practices as similar to that of the apartheid era. The whites, therefore, asked for the devolution of power, autonomy of minorities or regions, decentralization and proportional representation in order to counter the ANC control (Marasinghe, 1993: 833; Viljoen, 1990). The NP government also sought to secure certain rights for the future in order to reduce the “damage’ of giving up power.” Initially, the party did not defend power sharing as its primary goal but the focus was the protection of minority rights⁹² (Henrard, 2002a: 21, 108-109). The Democratic Party also called for the end of apartheid through “a federation of self-governing states”, separation of powers, autonomy to linguistic, cultural and religious groups, a bicameral legislature, proportional representation and a federal constitution which would ensure these principles (Worrall, 1990: 45). The Conservative Party also feared that small nations could be dominated by the majority, thus the party advocated the self-determination right. However, in contrast to the NP and the DP, the CP opposed power-sharing whilst defining such checks and balances in South Africa as a myth (Merwe, 1990: 38). With the fear of a possible black-dominated government, some of the extreme Afrikaner groups were willing the continuation of apartheid and hence, demanded the creation of a Volkstaat for the white population. The white minority feared that if they would not receive the right of self-determination their linguistic as well as cultural heritage would disappear. It explains why the Volkstaat was seen as a means to safeguard the privileges gained in the apartheid era.⁹³ The Asian, who benefited economically from the apartheid rule and wanted this privilege to be continued, also, preferred a white government (Marasinghe, 1993: 833-834).

As is seen, the claims of self-determination or at least a satisfying increase in provincial competencies came both from the advocates of status quo, those who

⁹² The basic reason behind the NP concern on the need to protect minority rights is the realization that the formerly ruling whites would now become the minority in the new South Africa.

⁹³ Constitutional Talk Number 3: 10 February 1995, Constitutional Talk Number 1: 13 February 1995 and Constitutional Talk Number 8: 29 June 1995 (cited in Henrard and Smis, 2000: 33).

sought the continuation of the apartheid regime and from the Inkatha, the second largest black opposition group in South Africa seeking the autonomy of KwaZulu Natal province. While there are many South African groups involved in the constitution-making process, the participation of three groups was crucial in the constitution process; DeKlerk's NP, Mandela's ANC and Buthelezi's IFP. The diverging claims of these groups and the debate on federalism are the key to understand the major dynamics of this process. As Southall puts it, "the eventual outcome is a compromise" (2000: 158) which was made possible through a long political negotiation process. This process produced the 1996 Constitution of South Africa which was based on the Constitutional Principles laid down by the interim constitution (Schedule 4). The following federal concessions both in the interim and final constitutions played the most crucial role in the conflict management process.

3.1.2. The (Federal) Demands and Concessions in the Interim and Final Constitutions

As a direct result of the negotiation process between different parties, the Constitutional Principles in the interim constitution included many federal as well as decentralized features. For example, the CP (XVI) ensured that "government shall be structured at national, provincial and local levels." CP (XVIII) provided that "the powers, boundaries and functions of the national government and provincial governments shall be defined in the Constitution" while the following CP (XIX) indicated that both national and provincial levels "shall include exclusive and concurrent powers." The Constitutional Principles from XX to XXVII define those powers and rights of national, provincial and local levels. Many other provisions were added both to the interim and final constitutions with the aim to contain the diverging (federal) demands of South African ethnic groups.

3.1.2.1. The Establishment of the Volkstaat Council and the Right for Self-Determination

The CP (XXXIV) which is on the recognition of self-determination was added in the very last minute –after the IC came into effect- in order to satisfy the

Afrikaner and Inkatha demands on self-determination as well as to sustain their participation to the negotiation process. The CP (XXXIV) recognized “the right to self-determination by any community sharing a common cultural and language heritage, whether in a territorial entity within the Republic or in any other recognized way... provided there is substantial proven support within the community concerned for such a form of self-determination.” The CP XXXIV(3) also ensured that “if a territorial entity... is established... before the new constitutional text is adopted, the new Constitution shall entrench the continuation of such territorial entity, including its structures, powers and functions.” As noted by Brooke and Gloppen, by inserting this principle into the interim constitution, it was also intended to prevent the Inkatha to boycott the elections and the Constitutional Assembly because of the fear that the IFP may “resort to violence through blackmail what they could not achieve politically” (Brooke, 2005: 19 and Gloppen, 1997 cited in Brooke). The issue will be dealt later in more detail. Here, it is necessary to note that this principle of self-determination is also the basis of the establishment of a Volkstaat for the Afrikaner population.

The Amendment Act 2 of 1994 of the Interim Constitution authorized the establishment of a Volkstaat Council having 20 members elected by members of Parliament (Chapter 11A, Sections 184/A) and specified its functions including “to serve as a constitutional mechanism to enable proponents of the idea of a Volkstaat to constitutionally pursue the establishment of such a Volkstaat” (Section 184/B1). The interim constitution also ensured that the Council would be competent:

to gather, process and make available information with regard to possible boundaries, powers and functions and legislative, executive and other structures of such a Volkstaat, its suggested constitutional relationship with government at national and provincial level, and any other matter directly relevant to the establishment of such a Volkstaat (Section 184/B1-a).

Although the ambiguity in the meaning of the CP (XXXIV) created intense debates while preparing the final constitution, by promising a Volkstaat in the initial phase of negotiations and the inclusion of related provisions to the interim constitution, ANC secured the participation of the right-wing Afrikaners to the negotiation process (Steytler and Mettler, 2001: 104). During negotiations, the Freedom Front insisted that the CP (XXXIV) justified “their demand for a constitutional recognition of a territorial Volkstaat” (Henrard, 2002a: 114; 2002b:

30). However, the ANC opposed this claim while pointing out the first interim report of the Volkstaat Council which was presented to the Constitutional Assembly and indicated the internal divisions on the future shape of the Volkstaat (Henrard, 2002b: 30). During several meetings between the ANC, the NP and the FF, the ANC formulated the establishment of cultural councils and rights instead of the implementation of such a Volkstaat in the Final Constitution. The establishment of the Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities in the 1996 Constitution (Ch. 9, Section 185), the inclusion of a section with additional “cultural rights” in the Bill of Rights (Section 31 on cultural, religious and linguistic communities) and the inclusion of a constitutional provision (Section 235) on self-determination is the direct result of this process. However, the latter principle on self-determination of the final constitution was only the mimicry of the Constitutional Principle XXXIV in the interim constitution (Henrard, 2002a: 114). Section 235 of the South African Constitution ensures that:

The right of the South African people as a whole to self-determination, as manifested in this Constitution, does not preclude, within the framework of this right, recognition of the notion of the right of self-determination of any community sharing a common cultural and language heritage; within a territorial entity in the Republic or in any other way, determined by national legislation.⁹⁴

This is the only constitutional provision that mentions self-determination in the final constitution and it is as ambiguous as the CP XXXIV. As Henrard points out, the authority of national legislation to determine whether a community has the right to self-determination leads one to question if this is a grant at all (2002a: 116; 2002b: 32). Moreover, the 1996 constitution and the establishment of the Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities no longer recognizes the right of self-determination that might result in a Volkstaat (Henrard, 2002b: 35). Although the founding of a Volkstaat could not be realized, the underlying reasons behind the fears of the white population against a black domination was sought to be resolved through some other constitutional

⁹⁴ It is interesting that both in the CPs and in the final constitution, the use of “community” instead of “minority” is preferred. This is assumed to be related to apartheid ideology since “the former concept would express ties of affinity and connectedness rather than ties of blood.” Moreover, the word “cultural” instead of “ethnic” was preferred due to apartheid’s abuse of ethnicity (Curie, n.d., cited in Henrard, 2002a: 114).

provisions. Simeon focuses on two of them apart from the comprehensive Bill of Rights in the new constitution; proportional representation,⁹⁵ and the existence of a strong Constitutional Court which “asserted a role as an umpire in South African quasi- federal system” or a guardian of the constitution (1998: 15-19). The “cooperative government” principle also binds different spheres of governance which have interdependent relations in legislative, administrative and financial areas (Simeon, 1998: 19). Moreover, many party leaders declared their satisfaction from the product of the trilateral discussions between the ANC, the NP and the FF in various public speeches (Henrard, 2002a: 116).⁹⁶ Rolf Meyer from the NP asserted that “the real needs of all cultural groups are accommodated” and Valli Moosa from the ANC stated that the agreements dealt with the “national question’ without contradicting the concept of nation-building.” Although these provisions met mostly the demands of the Afrikaner population, many other party leaders also acknowledged the importance of this deal in preserving unity in diversity through their speeches (Henrard, 2002a: 116).

The origins of Afrikaner nationalism was discussed in the previous chapter. The transformation in this nationalism also facilitated the representatives of Afrikaner population to accept the change in the constitutional provisions of the interim constitution with regard to an Afrikaner homeland. Under the final constitution, the establishment of a Volkstaat was no longer possible; however, the Afrikaners did not resort to violence or any other means to realize their right for self-determination. Following the end of apartheid and the adoption of the new democratic constitution, the new order required Afrikaners to establish a new identity since the word “Afrikaner” was identified with apartheid ideology. Afrikaner élites sought to distance themselves from Afrikaner nationalism and redefine, deracialize

⁹⁵ Pre-1994 period South African elections were conducted in the constituency-based plurality system. A list system of proportional representation was an important bargain in the negotiations. ANC favored it because of the belief that it could maximize the effectiveness of its vote whereas the NP was convinced that it could maximize the representation of minorities (Mattes, 1994 cited in Southall, 2000: 149). The National Assembly of South Africa now consists of 350-400 members elected in terms of proportional representation (1996 Constitution, Ch. 4, para. 46).

⁹⁶ Nelson Mandela, for example, celebrated this achievement in his address on the occasion of the adoption of the new constitution and said that this was a “historic moment.” He also noted that “the constitution... is our pledge to humanity that nothing will steer us from the cause.” Mandela, N. (1996). Address by President Nelson Mandela to the Constitutional Assembly on the Occasion of the Adoption of the New Constitution. Cape Town. http://www.info.gov.za/speeches/1996/960513_0x764.htm, (08 January 2013).

and depoliticize Afrikaner identity. The essence of the new Afrikaner identity would now be on language not on race or ethnicity (Vestergaard, 2001: 28-31). Vestergaard informs us that in the new context, many Afrikaners do not define themselves in ethnic or racial lines but instead, focus on their professional or geographical status while some of the Afrikaners define themselves for simply being “South African.” The final attitude of the Freedom Front in accepting that establishing a separate Volkstaat was no longer likely also led the white-right to settle for provincial autonomy. There were also Afrikaners who became members of the ANC including Wilhelm Verwoerd and his wife.⁹⁷ The efforts of both Mandela and his successor, Mbeki to “include the Afrikaner community in the new South Africa” is also important in the reconciliation process (2001: 30-37)

South African case actually reflects a typical process as Steytler and Mettler hold: In order to preclude conflicts and maintain peace, “federal process is fed and kept on course”, however, “where the conflict or the threat of conflict disappears, or the conflict is resolved politically, the federal process may peter out” (2001: 105). This partly explains the demise of the right-wing as an influential political actor in South African politics and the fragmentation of the right-wing parties in an environment where the objective of self-determination could not be initialized. However, at the very beginning, the adherents of self-determination sought to obtain the federal rights given them in the Interim Constitution and the Volkstaat Council started with the search for self-determination until it soon became apparent that the Afrikaner population did not constitute majority within any territory. This means that the failure of Volkstaat initiative is not only related with the contradiction between the right-wing ideals and constitutional provisions that protects cultural and language rights on a non-racial basis but it is also the result of various factors including the lack of an identifiable territory where the white minority constituted a clear majority -in other words, the absence of a territorial Volkstaat- and related to this, little

⁹⁷ Wilhelm Verwoerd is the grandson of H.F. Verwoerd, the former prime minister of South Africa (1958-1966), who is accepted as the primary architect of apartheid (Kenney, 1980) together with D.F. Malan, the first apartheid prime minister. This relationship provides that both Verwoerd’s and his wife’s membership to the ANC carries a great symbolic importance.

enthusiasm among the Afrikaner population for a Volkstaat.⁹⁸ (Steytler and Mettler, 2001: 100-105).

In addition to the geographical dispersion of the Afrikaner population throughout South Africa, many of the Afrikaner nationalists also started to believe that their demand were not legitimate (Shapiro, 1997: 319). The extreme right-wing parties also lost their electoral support both in general and provincial elections while, at the same time, the ethnic-based politics are gradually declining in South Africa given that ANC increases its allocation of seats in provincial legislatures following 1994 elections (Appendix 6 and 7).⁹⁹ Moreover, the Commission which was established after the disbanding of the Volkstaat Council also included the religious communities cutting across territories. The focus of the commission was thus dispersed. Within the following years, an insurrection by the radical political organization has become unlikely as the ANC gained control of the armed forces (Steytler and Mettler, 2001: 100-105).

The same situation does not apply in the KwaZulu case. As opposite to an absent identifiable Afrikaner territory, the Zulu people had an historical settlement in the province. This explains the drafting of a fully-fledged federal provincial constitution by the provincial government of Kwazulu Natal in March 1996 (Simeon, 1998: 19; Steytler and Mettler, 2001: 99) through which the IFP challenged the national negotiation process. The IFP's attempt has been initiated with regard to the section 142 of the 1996 Constitution which ensures that "A provincial legislature may pass a Constitution for the province or, where applicable, amend its constitution, if at least two thirds of its members vote in favor of the Bill." However, as in the case of the final constitution and as ensured in Section 143 of this Constitution, it required the certification of the Constitutional Court that the

⁹⁸ The only provinces where the African people do not constitute the majority are the Northern Cape and Western Cape. Coloured (51,6) and white (12,4) population together constitute 64 percent of the total population in Northern Cape whereas in Western Cape, coloured (53,9) and white (18,4) population constitute nearly three quarters of the overall population (72,3 percent). Even under this proportion, the white population does not constitute the dominant majority in any province which would qualify for the establishment of their own separate state.

⁹⁹ In the first democratic elections of the country, NP won in Western Cape and IFP won in KwaZulu-Natal while the ANC won in the rest of the seven provinces. However, in the following 1999 elections, the ANC also won in Western Cape while increasing its share of the vote from 26 seats to 32 seats. 2004 elections was a complete victory for the ANC government who won all nine provinces. In the last 2009 elections, the ANC only lost in Western Cape with 14 seats against 22 seats of the DA.

provisions of the provincial constitution are not inconsistent with any provision of the interim constitution. Following this procedure, the Constitutional Court rejected the constitution passed by the Legislature of the province of KwaZulu-Natal for its incompatibility with any of the provisions of the interim constitution or the Constitutional Principles. During the process of political negotiation between the various parties represented in that Legislature, the ANC and GNU had emphasized this inconsistency and stated that the provincial constitution should not be certified.¹⁰⁰ The Constitutional Court concluded that “the provincial Constitution is fatally flawed and cannot be certified under the provisions of section 160(4) of the interim Constitution” relating to what have been categorized “as the usurpation of national powers, the consistency clauses and the suspensive conditions.”¹⁰¹ For example, the provincial constitution defined KwaZulu Natal “as a self-governing Province within the Republic of South Africa”, however; the Constitutional Court stated that provinces are not empowered to regulate their own status.¹⁰² The attempt of the Inkatha leadership in preparing its own version of provincial constitution thus failed. However, the proceeding parts will explain other concessions Inkatha received during constitution-making process.

Similar to Afrikaner nationalism, Zulu nationalism also waned within the following years for a number of reasons. For example, the strong link between the Zulu population and the IFP’s leader, Buthelezi and Zulu king later evaporated (Steytler and Mettler, 2001: 106). This was followed by sharing of the control of Zulu politics with the ANC (Jung, 1996: 54). Moreover, as pointed out by Piper, Zulu ethnic group which was politically divided, actually lacked a strong belief of the right to political autonomy (2002: 76). The “federalists” lost the majority in the province while the ANC gradually gained the majority of votes both in general and local elections (Steytler and Mettler, 2001: 106). Although in 1994 elections, the Inkatha won in KwaZulu Natal with slightly more than 50 % vote, this was far from being a complete victory. According to the election results, the IFP had won 41 seats while the ANC got 26 seats. In 1999 elections, the ANC nearly caught up with the

¹⁰⁰ See Constitutional Court of South Africa. (1996). Certification of the Constitution of the Province of KwaZulu Natal. Case CCT 15/96, pp. 2-3. <http://www.saflii.org/za/cases/ZACC/1996/17.pdf>, (25 January 2012).

¹⁰¹ Certification of the Constitution of the Province of KwaZulu Natal. p. 32.

¹⁰² Certification of the Constitution of the Province of KwaZulu Natal. pp. 10-11.

IFP with a 34 against 32 seats share. The Inkatha lost its majority in KwaZulu Natal in the 2004 and 2009 provincial elections when the ANC won in the province in both elections.

Ethnic group rights or ethno-nationalism is no longer a primary factor in determining political attitudes in South African politics which explains the loss of electoral support both of the Inkatha and right-wing parties (Egan and Taylor, 2003: 108). According to some experts, the Inkatha also moved away from its “militant Zulu nationalist” strategy, after a fifteen year of power struggle with the ANC and other anti-apartheid movements both in national and provincial (KwaZulu) scale, as a result of the changing political and institutional conditions. Those are the settlement of disputes between the ANC and the IFP -especially on the issues of transition- which was eased with the completion of the KwaZulu-Natal constitution-making process in 1996 and the changing political climate including the transition to democracy and the “defection” of the Zulu King, which, together forced the Inkatha to change its former strategy (Piper, 2002: 76; Piper and Hampton, 1998: 81).

In the view of Piper (2002), Buthelezi invoked Zulu nationalism as long as it served his political ambitions and abandoned it after Inkatha’s inclusion in the new democratic government following the 1994 elections. Piper further defines Zulu nationalism as a “nationalism without a nation” and the nationalist demands during the transition process as “an elite-driven political nationalism” (2002: 73). The author, therefore, concludes that “as a popular political movement, Zulu nationalism is dead” since ordinary Zulus do not support it and starting from the 1996, the IFP do not make reference to Zuluness (2002: 86-90; 2008: 395). Zulu people did not believe in the Zuluness as the Inkatha attached to it, thus, together with the changing political strategies of Inkatha, Zulu nationalist politics could now be abandoned by the IFP gradually after 1994 (Piper, 2002: 74).

The above-mentioned developments in South African politics help to explain why both groups demanding self-determination were then contented with provincial autonomy, another federal concession of the transition area. Although the right for self-determination was necessary to provide the inclusion of the Afrikaners and the Inkatha to the national constitution-making process and ease inter-groups conflicts, the following developments faded the nationalist aspirations of these groups.

Diverging claims on regional autonomy was a key question during negotiations and as is noted by Egan and Taylor, it was resolved by a mutual recognition that some degree of provincial autonomy was necessary (2003: 104-105). In evaluating federalism's capacity to manage conflicts, it is important to analyze this issue more in depth since devolution of authority to provinces are accepted by many scholars as one of the best strategies to accommodate differences.

3.1.2.2. Creation of Provincial Autonomy

In order to satisfy the demands of various groups, the ANC, though reluctantly, accepted the inclusion of many federal principles including provincial autonomy in the final constitution. The basic principle under intergovernmental relations in South Africa is based on its "cooperative government" principle which is defined by the Chapter 3 of the Constitution (Sections 40-41) and which underlies that all three spheres of government¹⁰³ must "co-operate with one another in mutual trust and good faith by ... assisting and supporting one another" (Section 41, h(ii)). Both the Interim Constitution of 1993 and the final constitution provided that federal, provincial and local (municipal) spheres of government are interdependent and interrelated. Ch. 4, Section 42(1-2) ensures that the Parliament consists of the National Assembly and the National Council of Provinces (NCOP) which together participate in the legislative process. The main legislative body is the National Assembly while the National Council of Provinces is the second chamber of Parliament.¹⁰⁴

¹⁰³ As is noted by Simeon, the word "sphere" was consciously chosen by South African constitution-makers because it connotes that the South African government is a single regime being constituted from multiple institutions whereas the words "levels" or "orders" implies a "divided sovereignty", which the South African constitution makers tried to avoid (1998: 21, footnote 10).

¹⁰⁴ However, Section 148 of Chapter 6 states that if a conflict occurs between national legislation and provincial legislation and cannot be resolved by a court, the national legislation prevails over the provincial legislation.

Table 3: South African Government Structure

Spheres	Legislative	Executive
National Government	National Assembly	President, Cabinet, Ministers
Provincial Governments	National Council of Provinces (NCOP)	The executive council: Premier and members
Local Governments	Municipal Councils	Municipal Councils

The 1996 constitution provides a provincial framework ensuring that each of the provinces has its own legislature and executive powers. As indicated in Section 42(4), National Council of Provinces was established in order to “ensure that provincial interests are taken into account in the national sphere of government.” NCOP is composed of a single delegation from nine provinces -ten delegates from each province which makes 90 in total. Each delegation is consisted of the Premier of the Province (a special delegate), three other special delegates and six permanent delegates (Ch. 4, Section 60, (1-2)). It is the provincial legislatures which determine the number of permanent delegates and which appoint them (Section 61, 2(a)). Each province has one vote and “all questions before the National Council of Provinces are agreed when at least five provinces vote in favor of the question” (Section 65, 1(a-b)). Article 125 vests executive authority of a province in the Premier who exercises the executive authority with the members of the Executive Council.¹⁰⁵ The 1996 Constitution recognized local governments as the third sphere of government. Local governments are not subordinate to the central government or provinces but have their own competencies. Chapter 7 specifies the status of local governments which consists of municipalities. Section 151(2) ensures that “the executive and legislative authority of a municipality is vested in its Municipal Council.” Section 154 also provides that both the central and provincial governments “must support and strengthen the capacity of municipalities to manage their own affairs, to exercise their powers and to perform their functions.” Through such provisions, provinces and

¹⁰⁵ Schedule 5 enumerates provincial legislative competence in less important areas of provincial matters like planning, sport, roads and traffic. As oppose to limited provincial powers, Schedule 4 has a more substantial list of concurrent national and provincial legislative competence which includes a wider range and more important competencies as agriculture, education at all levels excluding tertiary education, environment, health services, housing, industrial promotion, language policy, public transport, tourism, trade and welfare services. Provincial governments share its authority within these areas with the national government.

local governments are granted to govern their domestic affairs and matters crucial to their identity.

Despite being the lowest sphere, local governments have greater autonomy especially financially as compared to that of the provinces. Steytler relates this phenomenon to the role played by the local communities in the fight against apartheid. The local governments collect taxes of property rates and user charges which enable them to raise 83 percent of their revenues (2005: 38). Moreover, while the assignment of government employees in South Africa is conducted by a single national public service, local governments control their own administration in contrast with provinces (Fessha and Kirkby, 2008: 259). In South Africa, provinces have limited taxation powers and receive 96 percent of their revenue through national government transfers while local governments have more ability to raise their revenue (Fessha and Kirkby, 2008: 263).¹⁰⁶ However, revenue-raising capacity of regional governments is significant in the sense that fiscal autonomy is an important determinant of greater provincial autonomy (Fessha and Kirkby, 2008: 261).

The debate on the division of competencies between the national and provincial governments constituted one of the most contentious issues during the national constitution-making process. Section 214 of the South African Constitution provides that the revenue should be equally shared among national, provincial and municipal governments.¹⁰⁷ However, it is the national legislation which establishes the rules to determine the form and timing of the national, provincial and municipal budgets. Section 216 ensures that the national government may stop the transfer of funds to any organ of state committing serious or persistent material breaches. On the other hand, Section 227(a) specifies that both provincial and local governments are “entitled to an equitable share of revenue raised nationally to enable it to provide basic services and perform the functions allocated to it.” Section 227(b) also provides

¹⁰⁶ Chapter 13, Section 228 of the South African Constitution is on provincial taxes whereas Section 229 is on municipal fiscal powers and functions.

¹⁰⁷ Section 220 provides the establishment of the Financial and Fiscal Commission, an impartial body which, as stated in the Section 222, has the obligation to report in a regular basis not only to the Parliament but also to the provincial legislatures. The Commission was established in order to provide an equitable share of national revenue “through the formulation and collation of policy relevant analysis, in order to realize the values of the Constitution.”¹⁰⁷

that these governments “may receive other allocations from national government revenue, either conditionally or unconditionally.” However, it is only this article of the constitution that refers to unconditional or conditional grants. As noted by Simeon, conditional grants are attached to specific programs while the provinces are mostly free to allocate the unconditional grants as they like. In such a division, it is no surprise that if the unconditional grants predominate, the provinces will be more independent to choose their priorities (1998: 14). The provinces should be more autonomous to formulate provincial budgets and raise their own revenues in order to emerge as important actors in South African politics (Simeon, 1998: 14). This lack of fiscal autonomy is compounded by the differences of wealth and revenue-creation capacity among the provinces.

As in the CP XXXIV on self-determination, the clauses on provincial autonomy were also inserted to the Interim Constitution in order to meet the Afrikaner and Zulu demands. However, as discussed above, this process is not without problems. The gradual loss of provincial autonomy is criticized by many experts. The respective inactivity and inability of provincial legislatures to influence national policy through the NCOP makes people think that federalism and the provincial system are not working in South Africa (Murray, 2006: 30). Murray argued that provincial legislatures view themselves as agents of the federal government because they lack provincial autonomy (2006: 30). The merging of poor black homelands and wealthy white municipalities also created administrative and institutional problems (Heller, 2001: 144; Murray, 2006: 31). Interviews with the officials of South Africa indicate that most local councilors feel responsible to the ANC government rather than to their communities (Heller, 2001: 144-145). This, clearly, was not what the Inkatha and Afrikaners did ask for when they demanded decentralization or provincial autonomy but it is what they got.

The attitude of the ANC on federalism was explained in detail in the previous sections. In the transition process, the ANC used decentralization as an instrument to secure the support of the IFP and Afrikaner Volksfront for the draft and final constitutions. For this purpose, the ANC negotiators increased provincial autonomy, however, once obtained their goal, the ANC moved towards centralization (Lake and Rothchild, 2005: 116-117). Today, there are increasing calls for a greater provincial

autonomy especially in fiscal matters. Nevertheless, although not being a supporter of such a power-sharing arrangement, the party requires a fundamental amendment of the constitution if it seeks to abolish the provincial system (Southall, 2000: 160). Moreover, in order to amend the certain provisions of constitution, the supporting vote of at least six provinces (two-thirds of the provinces) are required (Section 74). Notwithstanding, it should be taken into consideration that such a peaceful transition to democracy and provincial autonomy in South Africa could not be anticipated in the apartheid era. The existence of three spheres of government can also increase greater citizen involvement in public affairs than in a unitary state (Simeon, 1998: 18). Although the provincial autonomy is still limited, the inclusion of provincial interests in the 1996 constitution was the key in the constitutional efforts of peace-making and they, in a sense, satisfied the demands of two important parties while providing their support to the national constitution-making process.

3.1.2.3. Cultural Diversity, Community Rights and Representation

Both the interim constitution and the final constitution put a great emphasis on equality of all citizens and the need for national unity while acknowledging cultural diversity in South Africa. The inclusion of a section with additional “cultural rights” to the final constitution and the provision on the establishment of the Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities imply the recognition of collective rights and thus, some kind of minority rights. Although the ANC opposed a special treatment for ethnic groups from the very beginning of the negotiations, the establishment of the Commission was a concession mostly to the FF who accepted a weak recognition of self-determination (Curie, n.d. cited in Henrard, 2002a: 117). Section 31 of the 1996 Constitution ensures that “persons belonging to a cultural, religious or linguistic community may not be denied the right, with other members of that community (a) to enjoy their culture, practice their religion and use their language; and (b) to form, join and maintain cultural, religious and linguistic associations and other organs of civil society. As Henrard notes, “the rights are indeed framed as collective rights, more specifically in terms of ‘members belonging to... communities’ and arguably enshrine a right to identity” (2002a: 115). The South

African constitution recognizes community rights and reinforces group rights by protecting their cultures and languages while rejecting any kind of ethnic politics. The boundaries of South African provinces were not designed and determined to provide certain ethnic groups their own states based purely on these ethnic identities.

In order to preserve cultural diversity of the country, the IFP demand for the recognition of traditional leadership was also secured in both constitutions. The purpose behind Inkatha's initiative was obviously to provide the inclusion of Zulu king in South African politics not just the official recognition of the status of traditional leaders. The major assertion, here, was that traditional leaders and indigenous law were important parts of the culture in many of South Africa's provinces. Provisions on the status of traditional authorities, who observe indigenous/customary law, were therefore included in the Interim Constitution of 1993 (Chapter 11, Sections 181-184). For example, Section 183 stipulated that if there are traditional authorities and their communities in a province, the provincial legislature shall establish a House of Traditional Leaders. Section 184 also provided the establishment of a Council of Traditional Leaders having 20 members (a chairperson and 19 representatives) who are elected by traditional authorities in the country. The status of traditional leaders and customary law were also secured in the final constitution in a separate chapter (Chapter 12) under the Sections of 211-212 which defined the status and the role of traditional leadership. Although those provisions are not as detailed as in the interim constitution, Section 212 of the Constitution ensures that "National legislation may provide for a role for traditional leadership as an institution at local level on matters affecting local communities." As close to the interim constitution, the final constitution also provided the establishment of houses of traditional leaders by national or provincial legislation and a council of traditional leaders by national legislation (Section 212, 2(a-b)).

The status of official languages was also a sensitive issue during negotiation process as both the Afrikaner and black population were concerned about the status of their languages. Like all national movements, Afrikaans play(ed) a huge role in the development of an Afrikaner nationalism and Afrikaners were concerned about the status of Afrikaans in relation to English. The major demand of the Afrikaners in regard to their language was to have Afrikaans as among the official languages of

South Africa -while many parties sought to improve the status of African indigenous languages which were highly neglected and marginalized during colonial rule (Henrard, 2002b: 26). As a result of the concerns of both parties, both the interim constitution (Section 3) and the final constitution (Section 6) have detailed and extensive provisions on the use and protection of South African languages which include both indigenous African languages and Afrikaans as among the eleven official languages of South Africa. Other official languages of South Africa are Sepedi, Sesotho, Setswana, Siswati, Tshivenda, Xitsonga, isiNdebele, isiXhosa and isiZulu and English.¹⁰⁸ The latter replaced Afrikaans, which is remembered as the language of oppression- as the official language of command in the armed forces and police (Vestergaard, 2001: 26-27). The interim constitution determined which languages should be official languages (Chapter 1, Section 3(1) and the final constitution maintained the related provision (Chapter 1, Section 6(1)).

The interim constitution (Chapter 1, Section 3(1)) required that “Rights relating to language and the status of language... shall not be diminished.” Chapter 1, Section 6(2) of the 1996 Constitution also states that “Recognizing the historically diminished use and status of the indigenous languages of our people, the state must take practical and positive measures to elevate the status and advance the use of these languages.” For this purpose, both the interim constitution (Chapter 1, Section 10) and the final constitution (Chapter 1, Section 6(5)) called for the development of an independent Pan South African Language Board with the purpose to promote the development and use of the above-mentioned official South African languages, all other commonly used languages of different communities and languages used for religious purposes. The final constitution, like the interim constitution, has provisions which promote the use of official languages for the purposes of government. Section 6(3) of the 1996 Constitution explicitly states that both the national government and provincial governments can select and use any of the official languages by “taking into account usage, practicality, expense, regional circumstances all the balance of

¹⁰⁸ The findings of the 1996 census indicate the most commonly-spoken first home languages in South Africa as following: IsiZulu is spoken by the majority of the population with a percentage of 22,9 which is followed by isiXhosa, with a 17,9 percentage and Afrikaans with a 14,4 percentage. Other mostly-spoken languages are Sepedi (9,2 %), English (8,6 %), Setswana (8,2 %), Sesotho (7,7 %), Xitsonga (4,4 %), SiSwat (2,5 %), Tshivenda (2,2 %) and lastly, IsiNdebele (1,5 %). Statistics South Africa. (1996). *The People of South Africa, Population Census, Report Number 03-01-11*, p. 14. <http://www.statssa.gov.za/census01/Census96/HTML/default.htm>, (1 December 2012).

the needs and preferences of the population as a whole or in the province concerned; but the national government and each provincial government must use at least two official languages.” National government and provincial governments are also authorized to regulate and monitor the use of these languages (Section 6(4)).

The design of national symbols including coat of arms/state emblem, national anthem and national flag also reflects the cultural diversity of the country and the determination to promote as well as to protect this diversity. South Africa changed its earlier coat of arms -the highest visual symbol of any state- which was used since 1910 in order to emphasize the democratic change in the country. The motto of the state emblem is written in the below of the emblem in the Khoisan language which means “diverse people unite”, reflecting the desire to provide national unity in diversity as noted in the preamble of the Constitution (South Africa Government Online and the Presidency - Republic of South Africa). South African national anthem (Section 4 of the 1996 Constitution) is a combination of *Die Stem van Suid-Afrika* (The Call of South Africa), the old national anthem and *Nkosi Sikelel’i Afrika* (God Bless Africa), an isiXhosa hymn which later became an anthem song at political meetings as a symbol of resistance against apartheid. The words of the anthem also reflect the respect for the cultural and historical diversity of the country. The lyrics are in isiXhosa or isiZulu, Sesotho, Afrikaans and English, which, again, emphasize national unity by preserving diversity.¹⁰⁹ National flags are among other important symbols of any state. The colors in South African national flag (Section 5 and Schedule 1 of the 1996 Constitution) represent different meanings for different people.¹¹⁰ The current South African flag has (chili) red, white, blue, black, green and gold colors. While the former three appeared in the old South African flag, the ANC flag had the latter three colors although in changing tones. The horizontal V form in the flag represents diverse elements in South African society which will open the road to unity (South Africa Government Online and the Presidency - Republic of South Africa).

¹⁰⁹ See also Government Gazette. 10 October 1997. No. 18341. <http://www.salanguages.com/anthem/anthem.pdf>, (08 July 2013).

¹¹⁰ See also Government Gazette, Vol. 432, June 2001. No. 22356. Pretoria. <http://www.info.gov.za/view/DownloadFileAction?id=65778>, (08 July 2013).

The inclusion of important opposition members in the first national government also served as a confidence-building measure which shows the determination for peace (Spears, 2002: 133-134). The Constitutional Assembly which would draw up the new constitution of South Africa had two co-chairs, one from the ANC, and the other from the NP). The appointment of Buthelezi as the Minister of Home Affairs (1994-2004) in the first post-apartheid coalition government (GNU), headed up by the ANC was also important in providing his inclusion in the national politics. DeKlerk was the Deputy President in the coalition government despite the fact that the ANC, who obtained the majority of the seats in the 1994 elections, could form a majority government. Piper further notes that the provincial victory of the IFP and its participation in the national government made the party a strong part of democratic governance while arguing that: “having learned the costs of marginalizing the IFP during the transition, the ANC discovered the benefits of including it in government, and the ANC national leadership assiduously cultivated a closer relationship” (2002: 885). South African ethnic groups are also represented both in the national legislature and provincial legislatures. Provincial representation was also a necessary and an important factor to win the support of self-deterministic groups during negotiation process.

The 1996 constitution which prohibits any kind of discrimination provides an enormous range of civic rights under its comprehensive Bill of Rights (Chapter 2). Under the new constitution, it has also become illegitimate to define one’s identity along racial lines (Vestergaard, 2001: 22). The 1996 constitution was not designed to reinforce ethnicity-based politics or to protect ethnic group rights but, rather, it included a system of checks and balances between the central government and provincial governments (Egan and Taylor, 2003: 107). The Constitution was also designed to heal the injustices of the apartheid era and unite a historically and deeply divided country like South Africa. The major aim was to prevent the future governments to make the same mistakes of the past (Steytler, 2005: 36; Sunstein, 2001: 225). A democratic and united South Africa could be made possible by adopting a new constitution written down through the participation of all groups in South African society. As discussed, there have been many amendments to the interim constitution in order to meet different (federal) demands of the related

parties. However, as noted before, the constitution could not come into effect unless the Constitutional Court certificate that all of the provisions of the new proposed Constitution complied with the previously mentioned 34 CPs. The following section will focus on this certification process and the objections of different groups to the certain provisions of the 1996 Constitution. This process and the attitude of the Constitutional Court also reflect the desire and determination of South African leaders on transition to democracy and conflict management.

3.1.2.4. The Eventual Outcome of the Negotiations: The 1996 Constitution and the Certification Process

The South African final constitution was adopted on 8 May 1996 following protracted negotiations in a two-year period between various parties. The IFP had withdrawn from the negotiation process on February 1995 but the ANC, NP, DP and PAC all participated to the voting and voted in favor of the constitution and provided the necessary two-thirds of majority. The abstention of the FF is related to the party's claim that the constitution did not adequately meet certain minority interests (Henrard, 2002a: 121-122). In order to ensure that the concerns of different parties are transmitted into the legal channels, the Constitutional Court asked the political parties and other bodies or South African people to submit their written grounds of objection to the interim constitution. Five political parties including the NP, DP and the IFP as well as 84 private parties submitted their objections.¹¹¹ This great involvement of the South African people and the parties representing the ordinary citizens in nearly every stage of the national constitution-making process provided a strong base for legitimacy for the South African constitution. The architects of the South African constitution believed that without the consent of different South African groups involved in the constitution-making debate, no permanent solution to the lasting cleavages could be achieved in the country.

In the certification process, the KwaZulu Natal government claimed that the Constitution did not comply with the right to self-determination found in CP XXXIV (Simeon, 1998: 19). In the first certification of the 1996 Constitution, the

¹¹¹ Constitutional Court of South Africa. Certification of the Constitution of the Republic of South Africa. (1996). Case CCT 23/96. Judgment, Item 22, 24.

Constitutional Court responded to the objection that the 1996 constitution did not comply with the CP XXXIV and indicated that “This is clearly a permissive rather than an obligatory provision. The only mandatory provision in the CP is that if a territorial entity has in fact been established in terms of the IC before the NT¹¹² is adopted, then such entity must be entrenched in the NT. No such entity had in fact been established, so no obligatory entrenchment had to be made.”¹¹³

After nearly five months of examination, on 6 September 1996, the Court issued its judgment on the certification process, rejected this proposed draft constitution and sent the Constitution back to the Constitutional Assembly for the noncompliance of the Text with the CPs in several areas. The most relevant to our subject is that the Court set out that the Constitution “fails to comply with CP XXV in that it does not provide for appropriate fiscal powers and functions for local government” and it did not comply with the CP XVIII “in that such powers and functions are substantially less than and inferior to the powers and functions of the provinces in the IC.”¹¹⁴ In order to address the grounds for non-certification which was specified in the First Certification Judgment of the Court, the CA amended the original draft. After examining whether this new text complied with the CPs, the Court set out that “the powers and functions of the provinces in terms of the AT¹¹⁵ are still less than or inferior to those accorded to the provinces in terms of the IC, but not *substantially so*” (emphasis added).¹¹⁶ The Constitutional Court later certified that all of the provisions in the amended text comply with the CPs and, therefore, the Constitution of South Africa became effective on 7 February 1997.

The constitution-making process was an attempt to gain the consent of all parties on the new form of the state along with other constitutional provisions. It was a win-win process under which all the concerned parties benefited from the negotiations where the active inclusion of the ordinary South Africans to the process were sought and the demands of different parties were taken into consideration by constitutional drafters. Especially in 1995, the year which was declared as “The Year

¹¹² NT refers to the New Text.

¹¹³ Certification of the Constitution of the Republic of South Africa. (1996). Item 218.

¹¹⁴ Certification of the Constitution of the Republic of South Africa. Item 482.

¹¹⁵ AT refers to the Amended Text.

¹¹⁶ Certification of the Amended Text of the Constitution of The Republic Of South Africa. (1996). Constitutional Court of South Africa. Case CCT 37/96. Judgment. Item 204(e).

of the Constitution”, politicians expressed the importance of the engagement of South African people to the constitutional process. Hassen Ebrahim, the Former Executive Director of the Constitutional Assembly and an important figure in the constitutional process “bantered” that: “Essentially the task that we had was to ensure that we had a constitution drafted by more than 40 million people.” (Segal and Cort, 2011: 146-147). The Chairperson, Cyril Ramaphosa also stated that:

We must put our vision to the country directly - the drafting of the constitution must not be the preserve of the 490 members of this Assembly. It must be a constitution that they feel they own a constitution that they know and feel belongs to them. We must therefore draft a constitution that will be fully legitimate a constitution that will represent the aspirations of our people (Segal and Cort, 2011: 146-147).

The role of federal promises was crucial in producing the desired outcome, that is, the management of ethno-racial conflicts which were historically prevalent in South African society. As Brooke puts it, “several factors suggest that this process in general and the constitutional principles in particular, were quite successful... the final transition to democracy saw a peaceful exchange of power, which involved all of the major political parties.... the constitutional principles did effect the process” (Brooke, 2005: 24). However, in understanding South African federalism, it is important to note that the asymmetrical federal features in the interim constitution were transformed into symmetrical federal provisions in the final constitution. Moreover, none of the Constitutional Principles were included into the final constitution -as was the case in the interim constitution- even though the 1996 Constitution complied with these Principles (Steytler and Mettler, 2001: 99-106).

South African conflict management focusing on equality of representation to all segments of population after long years of racial hegemony is seen as an example for the countries struggling with intrastate conflicts between minority and majority ethnic groups. Granting regional autonomy and positions of influence to DeKlerk and Buthelezi by Mandela indicated the importance of legitimacy and participation in any conflict management process. As noted, Mandela’s ANC had enough power to hold the majority in any elections without including DeKlerk and Buthelezi to the process or the party could simply impose the rules of negotiation. However, “the all-parties involvement” shows the determination of the leaders to bring legitimacy to the process and the desire for a long-term peace and stability. It is also because if any

of these groups believed that they will not be a part of the governance of the nation without any degree of provincial autonomy, the conflict would likely to continue (Spear and Keller, 1996: 123-124).

3.3. CONCLUDING REMARKS

Apart from the federal promises given by the ANC in the national constitution-making process and the federal elements included both in the interim and final constitutions, many other factors also contributed to the success in maintaining diversity and thus, in peacefully accommodating conflicts existent in South African society. Those are other conflict management strategies which are not directly related to the federal character of the country. The establishment of the Truth and Reconciliation Commission (TRC) in 1995 by the grand coalition of the GNU can be evaluated as an important effort in this regard. The Commission which was chaired by Archbishop Desmond Tutu was established following the abolition of apartheid in order to confront and heal the divisions of the past. TRC was an official court-like body which started its hearings in 1996 and was established with the Promotion of National Unity and Reconciliation Act in order to:

provide for the investigation and the establishment of as complete a picture as possible of the nature, causes and extent of gross violations of human rights committed during the period from 1 March 1960 to the cut-off date contemplated in the Constitution, within or outside the Republic, emanating from the conflicts of the past, and the fate or whereabouts of the victims of such violations; the granting of amnesty to persons who make full disclosure of all the relevant facts relating to acts associated with a political objective committed in the course of the conflicts of the past during the said period; affording victims an opportunity to relate the violations they suffered; the taking of measures aimed at the granting of reparation to, and the rehabilitation and the restoration of the human and civil dignity of, victims of violations of human rights; reporting to the Nation about such violations and victims; the making of recommendations aimed at the prevention of the commission of gross violations of human rights.¹¹⁷

Through the hearings of the Commission, victims were given a chance to talk about their experiences and the perpetrators were provided a space to ask amnesty

¹¹⁷ See Promotion of National Unity and Reconciliation Act, No 34 of 1995. <http://www.justice.gov.za/legislation/acts/1995-034.pdf>, (10 November 2012).

from the victims.¹¹⁸ TRC process has ended in 1998, however, the institution has been an important means for the new South African government to deal with the crimes, especially human right abuses committed during the era of apartheid by the former governments, to provide reconciliation of former enemies and thus, to consolidate the transition (Graybill; 1998: 43 and 2002: 1; Irobi, 2005). Such kind of redistributive and/or restorative justice like gacaca courts of Rwanda¹¹⁹ brings victims and perpetrators together, aims to help ease the past wounds and re-establishes broken relations.

The abolition of the bantustans is also accepted as an important contributor to the conflict management process in South Africa. In order to establish a non-racial and democratic South Africa and to redress the inequalities of the apartheid era, the bantustans were officially abolished by the NP government in 1993, prior to the first democratic elections of South Africa. For many years, the black opposition including the ANC called for the dismantling of bantustans and following their abolition, completely new provinces were created (Egan and Taylor, 2003: 102-105).

In order to create a new South Africa, additional measures have been taken following the transition era. As a result of the apartheid policy, some monuments represented Afrikaner history whereas South Africa's National Day, "Day of the Covenant" symbolized the victory of the Afrikaners over the Zulus in 1838. The streets also had their names from Afrikaner nationalist heroes as well as airports and dams were named after Afrikaner politicians. Some of these monuments remained not to upset the white population while the monument celebrating Afrikaner victory was augmented by another monument to commemorate the Zulu victims in that battle. At the same time, apartheid symbols including the national day, anthem and flag were replaced by new national symbols while new holidays celebrating black history were established. South African national history is also rewritten and the school curricula are changed in order to include the black population in the new national narrative (Vestergaard, 2001: 21-25). Further demands to rename some

¹¹⁸ For a detailed list of the hearings of the Commission, see the Official Webpage of the Truth and Reconciliation Commission at: <http://www.justice.gov.za/trc/>

¹¹⁹ Gacaca Court System was established in 2004 following the Rwandan genocide of 1994 due to the result of large volume of trials that Rwandan courts were not able to deal with. The major aim of gacaca courts, like that of the TRC was to create a space for reconciliation by assisting forgiveness and bridging a dialogue. Both bodies employed the principle of Ubuntu, "the traditional African concept that means people are people through other people" (C. King, 2011: 24, and 2, footnote 2).

public buildings proceed since the 1994 elections. On May 2013, King Goodwill Zwelithini called for a renaming of public hospitals with colonial names since “these were people who had oppressed the Zulus and should not be remembered.” The name of King George V Hospital in Durban was thus renamed King Dinuzulu Hospital after Zulu king, great-great-grandfather of King Zwelithini early in 2013 (Mkamba, 2013).

Many scholars discussed the relevance of federalism for the South African context from different perspectives and sought to evaluate its potential to produce certain outcomes such as enhancing democracy, improving minority rights, fostering economic efficiency or, as close to our attempt, eliminating or at least managing conflicts in the country (Inman and Rubinfeld, 2005; Sunstein, 1993). Some of the students of federalism have advocated the application of federal principles in South Africa for various reasons. Oosthuizen, for example, argued that federalism was superior to unitarism in South Africa while developing a new concept, “cofederation”, “combining characteristics of both federation and confederation in a hybrid interstate-intrastate dispensation” (2007: 66). Lijphart was also a prominent advocate of power-sharing in South Africa who argues that consociational models have an important role in South Africa’s transition to democracy (1998: 144). Horowitz, on the other hand, argued that federalism can decrease the control of the center in a divided country like South Africa by increasing the points of power. In this way, even if a party loses the opportunity to gain power at the national power, it still has the chance to win at the state level (1991: 221-222).

Other scholars of federalism are skeptical about the promise of decentralization in South Africa while arguing that centralized federalism does not work well in a new federation like South Africa lacking a commitment to federalism as in Germany because South African provinces do not have necessary human and fiscal resources (Hueglin and Fenna, 2006: 142) Field further holds that even though the adoption of federalism can provide peace, stability and democracy in South Africa, federalism does not determine the degree of democracy and the relative powers of different levels of government per se (1993: 452). From a rather different point of view, Hopper holds that the status quo should be preserved in South Africa without increasing the degree of federalism and, thus, segmental autonomy. In

Hopper's words, "the probable benefits from increasing federalism are small and the negatives are highly hazardous" not least because strengthening federalism could also lead to the rise in political parties in search for ethnic votes, even lead to secession and therefore, disadvantage minorities (2008: 6).

Despite the many diverging views like the above-discussed ones, many scholars accept that the South African system is moving away from decentralization and the country is becoming a more centralized federation. There is a recent debate about the quality of democracy given the ANC's dominant party status. As the election results already indicated, by virtue of ANC's dominance in the national government and in majority of provinces, South Africa is mostly defined as a "one-party-dominant system" (Murray, 2006: 31). The African National Party is the predominant party which collected 65.9 percentage of all votes in the last election. The party enjoys its dominant status which is strengthened in the absence of a serious opposition or a strong civil society. South African opposition is relatively weak and fragmented although there are thirteen major parties which are officially represented in South African National Assembly. The ANC now has 264 seats whereas the official opposition party, Democratic Alliance (DA) has 67 seats which is followed by the Congress of the People (COPE) with 30 seats and the IFP with 18 seats. The rest of the nine parties have less than five seats while four of them have received only one seat in the latest 2009 elections.

Despite the efforts of post-apartheid governments and the loss of importance of ethnic politics, South Africa is still defined to be a racialized country where "racial stereotyping remains" (Vestergaard, 2001: 30). The dismantling of bantustans was also an important attempt to end the separate development policy of the apartheid regime, however, many experts hold that the problems created by the construction of bantustans were not resolved following their abolition (King and McCusker, 2007: 10). In other words, even though bantustans do not exist as political entities in contemporary South Africa and they have been reincorporated under the new administrative structure, "the residual impacts of bantustanization" did not disappear. As social constructions over space have long-lasting impact -as in the case of South African bantustans which were artificially constructed- these entities continue to exist *de facto*. It should also be noted that the dire economic conditions did not

change by the granting of political freedom even though various reforms have been initiated -including land reform, rural development and macro-economic policies- in these former bantustans following the transition to democracy (King and McCusker, 2007: 9; Levin and Weiner, 1997: 6; Ramutsindela, 2001: 175). Most of South African provinces were established following the abolition of bantustans. This partly explains why these new entities have weak regional identities as well as weak political and administrative capacity (Simeon, 1998: 18). In addition to decreasing autonomy of provinces, there is extensive control of central government over provincial issues especially in fiscal matters. The following argument is thus correct that South African federalism is a still emerging federalism being highly centralized.

However, despite the limitations in the operation of South African federalism, one should also consider the remarkable transition from apartheid rule to democracy where race-based policies were outlawed and all segments of the population could now freely participate to the political process. Moreover, South Africa's 1996 constitution, a product of a series of negotiations is evaluated as one of the most liberal constitutions with its comprehensive Bill of Rights. Minority rights were guaranteed in the new constitution which protected fundamental civic rights. The inclusive character of the constitution-making process was also important in order to reach an agreement prepared by consensus. In this process, sticking to the two-year deadline for negotiations provided a more systematic drafting process though not free of problems. The success in South Africa's transition to democracy by effectively managing existing intra-group and inter-group cleavages can be further summarized in the light of the theoretical framework and the chronological information provided in the preceding paragraphs.

The major argument of this chapter along with the previous one is that federal promises included in constitution-making process have been effective in contributing to the transition to democracy and reconciliation in South Africa as well in eliminating or reducing existing conflicts within different groups. Despite the failure of the application of a selective federalism in the apartheid era -which is imposed from above, not as a result of the territorial demand of ethnic groups- the success of federal applications in the country depends on its radical departure from apartheid federalism. While the federal practices in the former era were designed to sustain

white rule through separate development and ethno-territorial politics, the transition era represents a determination of various parties to accommodate existing conflicts and to establish a unitary democratic system. In this period, federal promises were necessary in order to bring all segments of the society into the negotiation process. The inclusion of power-sharing principles into the negotiated 1996 constitution was also seen necessary by certain groups as a means to prevent ethnic or racial domination of any group.

As Spears puts it, power-sharing principles are appealing both to the parties “whose power is declining” and the parties “whose power is rising.” The former support the principle of sharing power since it feels that they will not attain the dominant power -or any political power at all- in the new democratic system. So, power-sharing represents one of the best formulae to protect their own interests. This explains why DeKlerk insisted on the inclusion of federal or power-sharing principles to the new constitution in order to protect white interests. As for the latter, sharing power is still attractive because it attracts foreign aid or international legitimacy¹²⁰ and provides internal legitimacy to the political process. The weakness of both sides and the recognition that they needed peace forced them to accept a power-sharing pact (2002: 128-132). Even though most of the federal principles of the interim constitution were not included in the final constitution and the country became more centralized, South African government still has many federal features including the relative autonomy of the provinces and three-sphere governance system. This was achieved through inclusive negotiations when the ANC accepted some of the federal demands of the IFP and Afrikaners and included them in the constitution. Although the Afrikaner population and the Inkatha did not receive any territorial concessions or ethnicity-based rights, they were soon satisfied by the clauses of provincial autonomy and a detailed Bill of Rights which focused on individual rights rather than (ethnic) group rights as opposite to what the NP leaders initially demanded. This proves the assumption that power-sharing formulas may be transitional in nature and are gradually replaced by regulations on civic rights (Mandaci, 2013).

¹²⁰ In South African case, international community played an indirect but an important role in pressuring these actors to start negotiations.

The Inkatha also received the recognition of traditional leaders under Chapter 12 of the Constitution. Moreover, ethnic-based national ambitions almost disappeared in the new political context when ethnic politics lost much of its appeal following the inclusion of different ethnic groups both into the federal and provincial governments. The exact outcomes of federal arrangements in South Africa remain to be seen in the years to come. Nevertheless, it can be argued that the federal arrangements could not be adequate to bring a long-lasting peace if they were not followed by a reconciliation process having the capacity for long-term conflict avoidance. Despite their shortcomings, other measures and affirmative action programs¹²¹ including the establishment of the Truth and Reconciliation Commission and the abolishment of bantustans contributed to reconcile groups divided and conflicted along ethnic as well as racial lines.

In the conflict management process, timing is also very crucial. For example, in South Africa, DeKlerk emphasized the importance of negotiations and said that the country should draw lessons from the mistake Rhodesians did. DeKlerk even argued that in Rhodesia, the leaders missed the opportunity for constructive negotiation when the timing was almost perfect: “They waited too long before engaging in fundamental negotiation and dialogue. We must not make that mistake, and we are determined not to repeat that mistake” (Huntington, 1991: 155). South African leaders indeed did not repeat the same mistake and started the constitutional negotiation process before it was too late. When considering the decades-long apartheid system and the international conjuncture, it was actually too late for South Africans to implement such a constitutional and political restructuring; however, the timing was good in the way that the ethnic conflicts in South African society have not intensified into a degree to produce an inevitable deadlock.

¹²¹ As Mustapha notes, there are three major motives behind the adoption of affirmative action; “to offset past discrimination, to counteract present unfairness and to achieve future equality.” In Nigeria - as in South Africa- all of these motives have been effective in the desire for further reforms (2007: 8-9).

CHAPTER FOUR

FEDERALISM, CONFLICTS AND POLITICS IN NIGERIA

For years, Nigeria was the only African country having a sustained federal character with the exception of Comoros. The Federal Republic of Nigeria is a West African country which comprises 36 federal states¹²² and a Federal Capital Territory (FCT), namely, Abuja. It is the most populous African country and among the ten largest countries in the world in terms of population (United Nations, 2004: 42). In 2050, the country is estimated to hold the sixth rank in world population (United Nations, 2006: 7). According to 1991 census, Nigerian population was about 89 million (National Population Commission, Nigeria, 2004: 1) and within 15 years, it increased to slightly more than 140 million (National Population Commission, Nigeria, 2010: 9). The results of the 2006 census indicate that the most populous cities are Kano (9,4 million) and Lagos (9,1 million). In order to satisfy different parts of Nigerian federation, the country was divided, although not officially, into six geo-political zones by the General Ibrahim Babangida administration: North-Central, North-East, North-West, South-East, South-South, and South-West.¹²³ Historically, Nigeria was divided into two parts, namely, the Northern and Southern provinces. The clashes and tensions between these parts are still a contentious issue in Nigerian politics. In Northern Zones, there are 75,2 million people while in Southern Zones, the inhabitants are 65,1 million (National Population Commission, Nigeria, 2009: 1, 9). However, the data provided by Nigerian censuses including the recent 2006 census is controversial because the resource allocation in Nigerian constitution depends mostly on population.¹²⁴ Nigerian states competing with each other for state

¹²² Nigerian federal states are Abia, Adamawa, Akwa Ibom, Anambra, Bauchi, Bayelsa, Benue, Borno, Cross River, Delta, Ebonyi, Edo, Ekiti, Enugu, Gombe, Imo, Jigawa, Kaduna, Kano, Katsina, Kebbi, Kogi, Kwara, Lagos, Nasarawa, Niger, Ogun, Ondo, Osun, Oyo, Plateau, Rivers, Sokoto, Taraba, Yobe and Zamfara.

¹²³ In the Official Webpage of the Federal Republic of Nigeria, Nigerian states are listed in line with these six zones. The six geo-political zones consist of the following states. North-Central: Benue, Federal Capital Territory, Kogi Kwara, Nassarawa Niger, Plateau; North-East: Adamawa, Bauch, Borno, Gombe, Taraba, Yobe; North-West: Jigawa, Kaduna, Kano, Katsina, Kebbi, Sokoto, Zamfara; South-East: Abia, Anambra, Ebonyi, Enugu, Imo; South-South: Akwa Ibom, Bayelsa, Cross River, Delta, Edo, River; South-West: Ekiti, Lagos, Ogun Ondo, Osun, Oyo. For the map of Nigerian states in the six zones, see Appendix 8: Map of Nigerian States and Geo-Political Zones.

¹²⁴ Section 160(2) of the 1999 Constitution of the Federal Republic of Nigeria requires that "...the National Assembly shall take into account, the allocation principles especially those of population,

resources are thus assumed to overstate their population in order to enlarge their access to state resources and political power since census data play a significant role in determining the amount of revenue each state will receive from the national government. Therefore, southerners do not accept that the north is more populous than the south although the census data indicates so (Library of Congress, 2008: 8).¹²⁵

Similar to the South African case, questions about religion and ethnic origins are excluded from national censuses after 1991 census following the decision of the National Population Commission (Library of Congress, 2008: 9; Olowu, 1991: 164). However, Nigeria, one of the most ethnically diverse countries in Africa is estimated to have between 250 to 400 ethno-linguistic groups (Alapiki, 2005: 51; Kirk-Greene, 1967: 5; Mustapha, 2007: 3; Ojo, 2009: 384). There are some minority and majority ethnic groups within the country. The three largest ethnic groups are the Hausa/Fulani (29 percent), Yoruba (21 percent) and Igbo (18 percent). While Hausa/Fulani have historically had control in northern Nigeria¹²⁶, Yoruba dominated in the southwest and Igbo in the southeast. In addition to these three major ethnic groups, there are many significant sub-groups/large tribes/minorities of unspecified number within the thirty six states of Nigeria. Conflicts and rivalries among Nigerian ethnic and religious groups create instability in Nigerian socio-political life (Library of Congress, 2008: 9; Mustapha, 2007: 3).

The earliest European contact in Nigerian coastal areas dates back to 1472 with the arrival of Portuguese ships in Benin. However, the arrival of the British a century later constituted a new period in Nigerian history. Nigeria became a British colony in 1900 when the British took over the administration from the Royal Niger Company (Nze and King, 2005: 228-229). Before the British rule, the territory that is now Nigeria was made up various politically autonomous societies (Alapiki, 2005: 52). The colonization period started in the country with the acquisition of Lagos in 1861 which was followed by British domination in other parts of Nigeria. The country gained its political independence in October 1, 1960; the same year when 17

equality of States, internal revenue generation, land mass, terrain as well as population density.” <http://www.nigeria-law.org/ConstitutionOfTheFederalRepublicOfNigeria.htm>, (20 January 2013).

¹²⁵ The following chapter will examine how this revenue allocation system also drives the pressure for the creation of more states. See Appendix 9 for population distribution by states and Appendix 10 for population distribution by zones.

¹²⁶ The rule of Hausa/Fulani in the region originates from the ruling class of the Sokoto Caliphate of the nineteenth century (Ayua, 2005: 30).

African states became independent. Before British rule, the country was divided among independent and autonomous states which were interconnected through commercial ties but did not experience any kind of political unification (Falola and Heaton, 2008: 109).¹²⁷ The colonization of Nigeria profoundly changed the socio-cultural, political and economic relations among the societies.¹²⁸ Although the country gained its independence from British rule and became a federation with three regions, the legacy of colonialism constitutes the very roots of some of the ethno-regional and ethno-religious conflicts in Nigerian society. This issue will be further analyzed within the following section which focuses on the origins of Nigerian federalism.

Table 4: Nigerian Government Structure

	Legislative	Executive
National Government	National Assembly (The Senate and House of Representatives)	President, Vice-president, Federal Executive Council,
Federal States	States' Houses of Assembly	Governor, the Deputy Governor and State Executive Council

As similar to South African Constitution of 1996, Nigerian Constitution (1999) also has an exclusive list of jurisdiction for the central government (Second Schedule of the Constitution, Part I, Items 1-68). Chapter 1 of the Nigerian federation vests the legislative powers of the Federal Republic of Nigeria in the National Assembly which consists of a Senate and a House of Representatives.¹²⁹ The Constitution provides that the Senate consists of three senators from each state

¹²⁷ This also explains the inorganic nature of the Nigerian state which was established through the unification of independent states interconnecting only commercially and “to some extent cultural over the previous centuries” (Falola and Heaton, 2008: 109).

¹²⁸ Starting from the second half of the late nineteenth century to early twentieth century, it took 40 years of the British administration to complete the colonization of the entire country. The colonization of Nigeria officially began in 1861 with the annexation of Lagos. The boundaries of the protectorates were set in 1903 with the conquest of the Sokoto Caliphate after when Britain maintained control in the Protectorates of Northern and Southern Nigeria (Falola and Heaton, 2008: 93, 106-109). The interests of three groups were influential in increasing British influence and involvement in “the colonial occupation of the territories that would become Nigeria”; the missionaries willing the protection and assistance of the British government in order to “civilize” the indigenous societies, spread their religion (evangelization) and help the removal of slavery; British traders, who saw that commercial interests were threatened by the increasing number of European trading firms and indigenous traders in the region and lastly; British politicians, who were concerned about the increasing French and German influence both in the areas of trade and politics in the region (Falola and Heaton, 2008: 85-109).

¹²⁹ See Section 4(1) of the Section 2(2) and Chapter V, Part I(47) of the Nigerian Constitution.

and one from Abuja while the House of Representatives “shall consist of three hundred and sixty members representing constituencies of nearly equal population as far as possible, provided that no constituency shall fall within more than one State” (Chapter V, Part I (48-49)).

Chapter 1 also vests the legislative powers of Nigerian states in the House of Assembly of the State.¹³⁰ The Constitution requires that a House of Assembly of a state having between twenty-four and forty members “shall consist of three or four times the number of seats which that State has in the House of Representatives divided in a way to reflect, as far as possible nearly equal population” (Chapter V, Part II(91)). Each Nigeria state is divided into Local Government Areas which is listed in the Second column of Part I of the First Schedule. The Fourth Schedule of the Constitution lists the functions of the local government councils.

Chapter VI (Part 2, Items 90-105) has a shorter list of jurisdiction for state governments. Sch. 2 also defines the concurrent legislative list for central and state governments. However, like maintained in the South African Constitution, in case of a constitutional dispute between the central government and federal states, Section 2(2), Section 5(1) of the Nigerian Constitution states that: “If any Law enacted by the House of Assembly of a State is inconsistent with any law validly made by the National Assembly, the law made by the National Assembly shall prevail, and that other Law shall, to the extent of the inconsistency, be void.” Like South African federalism, Nigerian federalism is also highly centralized and the national government has greater legislative powers than the regional governments. This makes Nigerian federalism to be defined by some experts as a unitary state which “masqueraded as a federation” (Nze and King, 2005: 234).

¹³⁰ See Part II, Item 6.

4.1. AN INTRODUCTION TO NIGERIAN POLITICS

Table 5: A Short Chronology of Nigerian Political History

Time Period	Type of Regime	Governing Institution
1963-1966	Parliamentary System	The First Republic and Civilian Rule
1960-1979	-	Military Rule
1979-1983	Presidential System	The Second Republic and Civilian Rule
1983-1999*	-	Military Rule
1999-present	Presidential System	The Fourth Republic and Civilian Rule

*The period from 1993 to 1999 is referred as the “Third Republic.”

Nigeria has experienced two types of regimes since independence. From the independence to the first military coup, Nigeria was governed by a Westminster-style/British-style parliamentary system of government. However, the first coup d'état did not only change the type of the government (from a federal system of government to a unitary government albeit for a very short period of time) but also altered the government system. By the 1979 constitution, Nigeria has been governed by a US-style presidential system. As is noted by Adamolekun, both systems of government influenced the evolution of federalism in Nigeria (1991: 5). It is important to note that the debate on parliamentary versus presidential system is still a topical issue in Nigerian politics. Many scholars overtly support the return to parliamentary rule for a peaceful coexistence (Dent, 2000). However, this issue is not systematically explored within the study. The below table elaborates these turning points in Nigerian federalism and the following outcomes of these defining periods.

Table 6: A Chronology of the Evolution of Nigerian Federal System and Political Change

Key Periods	Political/Constitutional Change	Prevailing Patterns and Outcomes
1954-1966	Introduction/Adoption of the Federal System	Weak federal government and strong regional governments
January 1966- July 1966	The first coup d'état; abrogation of the federal system and the proclamation of Nigeria a unitary state by General Aguiyi-Ironsi	Ironsi chose to refer subnational units as groups of provinces
July 1966-July 1967	Military-military succession by the second coup d'état. General Yakubu Gowon reversed the unitary constitution, restored a federal administration system, restructured the federation, and twelve	Strengthening of the federal government at the expense of the state governments

	states replaced the existing four regions	
July 1967- January 1970	Following the secession of “Biafra” from the Federation in 1967, the thirty-months civil war broke out and the SMC (Supreme Military Council) was established.	The trend towards strong federal and weak regional governments accelerated; federal dominance increased
1975	Another military-military succession by the third coup d’état of General Murtala Mohammed	Military administration was established following the coup
1976	The increase in the number of states from twelve to nineteen, Abuja was designated as the new federal capital	Nation-wide local government reform was launched and the recognition of local government as a distinct level of government
October 1979	Installation of civilian government at both federal and state levels under a presidential system of government, the adoption of 1979 constitution and the party elections	The formal institutionalization of local governments as the third-tier of federal government in 1979 constitution
1983	The fourth coup d’état of General Muhammadu Buhari and an end to the civil rule	The presidential system came to an abrupt end and the return to the 301 single tier local government system
1985-1998	Decline of the oil resources and military-military succession by the fifth coup d’état of General Ibrahim Babangida. Under his rule, the results of the 1993 presidential elections were annulled and an interim national government (ING) which is referred as the Third Republic was established.	An increase in federal dominance under military rule
1987	The increase in the number of states, the creation of two new states	
1989	The promulgation of the new constitution	Under the new constitution, the autonomy of the local governments increased and the two-party system has become mandatory
1991	The creation of nine new states. Nigeria became a thirty-state federation and 589 local governments	
1996	The current thirty-six state structure emerged following the creation of six new states	
1998	General Sani Abacha overthrew Babangida government, dissolved the National Assembly and dismissed the elected officials who were elected during Babaginda’s rule. Following the death of Abacha in 1998, General Abdulsalam became President and he ruled until 1999 when a new civilian government was established with the election of Olusegun Obasanjo as the new president	
1999	The return to democracy and civilian rule, the start of the post-military era and the beginning of the Fourth Republic. The current 1999 constitution, “Constitution of the Federal Republic of	

	Nigeria, 1999” was adopted	
1999-present	Civilian governments rule Nigeria. In 2003, for the first time in Nigerian political history, the elections were administered by a civilian government	The return to democracy did not create the peaceful coexistence of ethnic groups, however, civilian government tried many conflict management strategies while reinforcing the older ones

Source: Data abstracted from Adamolekun, 1991: 1-11.

For long years, military interventions and subsequent military administrations were common characteristics of Nigerian politics that the country has been ruled by the military for thirty five out of fifty three years of political independence. As Olowu points out, some experts blame periodic coups d'état and military rule for the supremacy of the federal government (1991: 158). However, this was not always the case. During the First Republic until the first military coup, the determining pattern in Nigerian politics was the existence of a weak central government and strong regional governments. Unlike the current 36 states, these larger regions had much more control of their own resources in the 1950s and 1960s.¹³¹ This federal structure where the power was centered in the regions with a central government having only limited powers did not last long (Bach, 2004; Kirk-Greene, 1967: 9) and was followed with the first coup d'état in January 1966. The old regional framework was dismantled with the separation of these regions and the creation of new smaller states in these regions. The coup was initiated by a group of Igbo officers and was led by Major Chukwuma Nzegwu. The Prime Minister, the Premier of the Northern Region, the Premier of the Western Region and several senior military officers were killed in the coup. The failure of “coup plotters” to secure Lagos provided Major-General Johnson Aguiyi-Ironsi to take over. Ironsi abrogated the federal system, proclaimed Nigeria a unitary state with the Unification Decree 34 (1966)¹³² and abolished the regions. However, this was followed by the second military coup led by General Yakubu Gowon who then became the Head of State, repealed the decree and restored the federal system (McHenry, Jr., 1986; Nze and King, 2000: 230; Olowu, 1991).

¹³¹ At that time, the regions even had their own diplomatic corps and separate marketing agencies (Odetola, 1978: 190).

¹³² See the Unification Decree: No. 34 of 1966: <http://www.dawodu.com/decreed34.htm>, (10 April 2013)

Under Gowon's rule, the existing four regions¹³³ were also replaced by the twelve states structure and as oppose to the 1954-1966 period, the central government was empowered at the expense of federal states. In this era, there was a general feeling among the representatives of some states that a strong federal center was necessary in order to avoid the break-up of the country (Dent, 2000: 162).¹³⁴ The secessionist attempt of the Eastern Region to establish a Biafran state was ensued by the thirty-months of civil war which ended in 1970. The federal forces eventually won. It is interesting that they had the motto of "to keep Nigeria is one is a task that must be done" while Gowon, who led the civil war became acronym with the desire "Go on With One Nigeria." In mid-1970s, political unrest increased within the country against the Gowon government which had been postponing the transfer of power to civilians. This brought another coup d'état and the end of Gowon era (Adamolekun, 1991: 5; Danmole and Aghalino, 1995: 19; Nmehielle, 2004: 757). General Murtala Mohammed who became the new head of the Federal Military Government after succeeding Gowon, initiated some political reforms but was killed in a coup attempt in 1976 (Nze and King, 2000: 231). Under the following Obasanjo rule, -Lieutenant-General Olusegun Obasanjo- the number of the states increased from twelve to nineteen with a new Federal Capital Territory at Abuja. In 1979, with the general elections and handing over of power to civilians, the Second Republic inaugurated. However, before the inauguration of the Second Republic, 1979 constitution which introduced a presidential government was adopted (Nze and King, 2005: 231).

Although the 1960 independence constitution preserved the same federal structure of the pre-independence constitution of 1954, the 1979 constitution fundamentally altered Nigerian governing system. The parliamentary system was replaced with a US-style presidential system and the local governments were established as the third tier of government. In 1983, the military took over again under the leadership of General Muhammadu Buhari. This time the military intervention was rationalized with the increasing corruption and economic

¹³³ For the maps of Nigerian three and four regions, see Appendix 11.

¹³⁴ Ayoade notes that the regions were strong especially as a result of their economic viability (1973: 74). These "over-mighty regions" were all under the control of one single party representing three major ethnic loyalties. However, Gowon reduced the economic self-sufficiency of the regions and thus, made them "obedient components" of the Federation (Ayoade, 1973: 74; Dent, 2000: 157).

deterioration under civilian rule. Two years later, following the fifth military coup, General Ibrahim Babangida came to power. Babangida became the first military leader to become president. Although he promised for a return to civilian rule, he annulled the results of the 1993 presidential elections. However, his rule was also overthrown by the coup of General Sani Abacha who dissolved the National Assembly and dismissed the officials elected during Babangida's government. Following the mysterious death of Abacha in 1998, General Abdulsalam became President and announced the upcoming elections. In 1999, Olusegun Obasanjo became the new civil president of Nigeria through elections (Adamolekun, 1991: 3; Nze and King, 2005: 231-232). The same year, a new constitution, the 1999 Constitution, which remains in force today, was adopted. The current 1999 constitution retains the essential features and provisions of the 1979 Constitution like the 1989 constitution, except some minor revisions and adjustments. The constitution was drafted under the military rule of General Abdusalami Abubakar (Ayua, 2005: 30). However, it was not drafted through an inclusive constitution-making process like the 1996 Constitution of South Africa, and thus, lacked the normal legitimacy (Bolaji, 2009: 128). This explains why the élite-driven constitution-making process, insensitive to the popular will, produced an undemocratic constitution. Even the draft of the constitution was never widely debated or voted upon (Ihonvbere, 2000: 346). This explains why the constitution-making processes in Nigeria did not become an effective conflict management tool as in the case of South Africa and was excluded from this chapter.

Much was expected from the inauguration of civilian administration in 1999. The central government initiated and institutionalized many conflict management strategies while some these measures were already tried but was updated in this era. They include the application of the federal character principle, the rotation of key posts in the national government among the six zones of the federal republic and the implementation of a new revenue allocation formula. However, these initiatives could not succeed in resolving the very conflicts among different ethno-regional and ethno-religious groups. Further, the conflicts which were translated into religious-based violence in the Kaduna state quickly followed the return to democracy and civil rule and the Fourth Republic witnessed the emergence of many violent

conflicts. The following part will present an overview of the political and constitutional history of Nigeria. As the above table indicates, the country has experienced two periods of military rule. In each of these long periods, the adoption of new constitutions preceded the transfer of power to civilians.

4.2. THE ORIGINS OF NIGERIAN FEDERALISM

The official colonization of Nigeria had begun in 1862, with the annexation of Lagos as a British colony under the political control of a British governor. However, prior to 31 December 1899, the country known as Nigeria was composed of three separate territories, namely, the Colony and Protectorate of Lagos, the Niger Coast Protectorate and the Niger Territories. In 1900, two new protectorates were created through the merging of these territories. The Southern Protectorate was established with the unification of the Niger Coast Protectorate and some Niger territories, remaining Niger territories formed the Northern Protectorate whereas Lagos and Colony remained separate (Alapiki, 2005: 52-53; Ayoade, 1973: 57-58; Falola and Heaton, 2008: 95). In 1906, Nigeria was reduced to two units and the Colony was amalgamated with the Southern Protectorate while Lagos preserved its legal status until the adoption of 1951 Constitution. In 1914, F. Lugard, the Governor-General of Nigeria amalgamated the North with the South. This provided the geographical unification of the country which remained divided in an administrative and cultural basis.¹³⁵ In other words, the political unification - including the amalgamation of some essential departments of customs, railways, education, police and prisons was not followed by an administrative amalgamation. Until 1939, northern and southern provinces were governed by separate Lieutenant-Governors following different policies (Tamuno, 1970: 565-566).

¹³⁵ Ballard holds that here, the major concern of the Colonial Office was to close the financial deficit of the North with South's resources as well as to unify the railway system in the country. However, the institutions were unified only in a limited basis and initially, only the transport and communication departments, the military, the Supreme Court and Nigerian Council were amalgamated whilst the last two institutions were already weak or acted only as an advisory body. Lugard also responded to the insistence of the Colonial Office to unify the treasury because he sought to maintain the integrity of two separate administrations in the Southern and Northern Nigeria (1971: 334-335).

The two protectorates were strangers and even hostile to each other and the merging of these colonies into a united Nigeria was done by force without taking the consent of the people. The existing groups living in the territory known as Nigeria had earlier contacts with each other but they were involuntarily united to live within an artificially designed territory. The emergence of Nigeria as a political unit through the regrouping of several diverse cultures in the colonial era explains why the country is still divided along ethno-linguistic, regional, religious, and cultural lines. The partition and integration of diverging and even adversary groups in the same territory also did not follow the pre-colonial socio-ethnic and politico-linguistic groupings in Nigeria. These historical facts together constitute the origins of many conflicts in contemporary Nigerian society and the problems on national unity (Attah, 1987: 393; Ayoade, 1973: 58; Ayua, 2005: 29; Ballard, 1971: 334; Coleman, 1960: 46; Irobi, 2005).

In 1939, Southern Nigeria was split into two regions by another Governor-General, Bernard Bourdillon in order to provide a more efficient administration by solving ethnographic and communication problems. Although the Northern Provinces had similar problems, their boundaries were not changed. This policy is charged with creating the structural imbalance between the Northern and Southern Provinces (Danmole and Aghalino, 1995: 17). The Richards Constitution of 1946 legalized this tripod division and created three regions. Thus, during this time, Nigeria was comprised of four “artificial administrative units”; The Western Province, the Eastern Province, the Northern Province and the colony of Lagos. The shortage of administrative personnel during the Second World War, and over-population in Lagos forced the colonial administration to delegate significant amount of powers and functions from Lagos to these three provinces. This administrative devolution was strengthened by the Richards Constitution which established regional legislatures in addition to a Legislative Council for the whole country. It is assumed that this regional concept provided the “building blocks” for Nigerian federalism. The 1951 Macpherson Constitution changed the status of these provinces as “regions” which later became the constituent units in Nigeria’s federal system. In 1951, the colony of Lagos was amalgamated with the Western region and under the 1954 Lyttleton Constitution, Lagos was made the federal capital whereas the regions

were granted greater autonomy. Under the 1954 Constitution, the three regions were the federating units. The Constitution also strengthened the federal character of the country. It is a prevalent assumption that despite the efforts to balance the center and regions since 1946, Nigeria did not become a federation until the adoption of 1954 colonial constitution. In other words, Nigerian federalism has its roots in the 1954 pre-independence constitution which established a fully-fledged federalism in the country in order to accommodate diverse ethnic groups. (Ayoade, 1973: 65, Ayua, 2005: 30; Coleman, 1960: 47-48; Inegbedion and Omoregie, 2006; 69; Nze and King, 2005: 229).

The 1954 constitution recognized the regional autonomy of the regions and defined the powers of the central government, the federal states and the concurrent powers. Numerous institutions including the judiciary, the Public Service Commission and the Marketing Boards were also regionalized. From the adoption of the 1954 Constitution until 1960, the three regions of Nigeria achieved self-government. In 1963, Nigeria became a republic and the period of the First Republic began (1963-1966) (Nze and Kingi 2005: 229-230). The 1960 Independence Constitution which maintained the federal system of the country and the following Republican Constitution of 1963 retained many of the provisions of 1954 federal Constitution (Adamolekun, 1991: 1; Inegbedion and Omoregie, 2006: 71-72). From its adoption until the first military coup in 1966, Nigerian federalism was quite decentralized and the constituent regions had their own regional constitutions,¹³⁶ police, civil service and judiciary. They even had their own coat of arms and motto distinct from the federal government. As was also discussed within the introduction of the chapter, starting from the military intervention in 1966, the central government became stronger as it acquired more powers, abolished regional police forces, states' coat of arms and mottos while taking over the assets of the states (Policy Briefs, 1999; cited in Ojo, 2009: 388).

In Afigbo's analysis, the British socio-political engineering which united separate entities in a single colony made federalism an inevitable option in the

¹³⁶ See the Constitution of Northern Nigeria Law, 1963, the Constitution of Eastern Nigeria Law, 1963 and the Constitution of Western Nigeria Law, 1963, starting from the page number 82 at the 1963 Constitution of the Federal Republic of Nigeria: <http://eienigeria.org/sites/default/files/files/TheRepublicanConstitutionOf1963.pdf>

country. These three regions were separately administered but were later merged due to the British concerns of administrative convenience for the large Nigerian territory and economic efficiency rather than the desire for geographic, cultural and linguistic integrity (1991: 15-17). As similar to South Africa, the divisions of the colonial era was inherited by the independence government in Nigeria. Nigerian civil and military governments developed various strategies in order to tackle with the very problem of diversity and conflicts between several ethno-regional and religious groups in the country. As was the case in the second chapter, the proceeding part will explore the sources of these conflicts which further damages the already “fragile unity” (Nmehielle, 2004: 757) of the country in order to provide a better understanding on how to effectively manage these conflicts. The following part will also analyze the conditions which transform ethnic differences into ethnic conflicts.

4.3. SOURCES OF CONFLICT

Sources of conflict differ in Nigeria when compared to South Africa. In Nigeria, the populations of white and coloureds were not significant as that of South Africa (Irobi, 2005)¹³⁷ which explains the lack of an ethno-racial strife in the country. However, like South Africa, the roots of conflicts between the different ethno-regional groups that claimed several lives lie in the historical phenomenon of colonialism. The diverging administrative policies in the northern and southern provinces during the colonial era divided the country and increased rivalry between these provinces. As Afigbo notes, Lugard’s amalgamation had increased the emotional and psychological distance between these regions (1991: 24). On the eve of independence, the claims and competition on government further increased ethno-regional tensions (Mustapha, 2007: 6). One of the main arguments of this section is that there are five major sources of conflict in Nigerian society paralyzing the management of inter-ethnic cleavages. The first of them, the threat of secession is not confined to any ethnic, religious or linguistic group while some of the other conflicts sometimes overlap.

¹³⁷ Nigeria was not the home for the white settlers like South Africa which was a settler colony.

4.3.1. Secessionist Demands

All federations face the threat of secession (Ayoade, 1973: 63), however, in some federations; the demand towards secession is higher than the others. In Nigeria, all regions of the country except the Mid-West come up with the claims of secession while the Mid-West first became a distinct region and later a state only in 1963 (Tamuno, 1970: 582). The Mid-West was created in 1963 from the Western Region following a public referendum where nearly 100 percent of the Mid-Westerners voted for a state of their own (Dent, 2000: 161). This is the beginning of a process which constantly increased the number of states in the country (Nze and King, 2005: 230). The secessionist demands of the regions are viewed by government officials as a serious threat to national unity. However, as Tamuno notes, until 1967, the regions did not implement secession but instead, the threat was formed from the verbal threats of particular states and was used as a conflict resolution tool over the constitutional conflict (Ayoade, 1973: 57; Tamuno, 1970: 565). The first secessionist demand in colonial era came from the North following the 1914 Amalgamation; however, it lacked a popular political support.¹³⁸ This has changed in 1950s when the representatives of Northern Nigeria threatened secession from the federation once again. However, behind this threat of secession, there lied political demands and once they were achieved, secessionist claims in the North were assuaged at least for the moment (1970: 564-568).¹³⁹

¹³⁸ The major motive for the Northern separatist agitations was the non-representation of Northern delegates in the Nigerian Legislative Council (from its establishment in 1914 until the Richards Constitution of 1947) and the demands of an élite group seeking for a separate development (Tamuno, 1970: 565-566).

¹³⁹ This occurred in a conference organized in order to review the Richards Constitution and to discuss the representation ratios in the Central Legislature. The conference committee recommended the following quotas of 45, 33 and 33 for the Northern, Eastern and Western Provinces. The Northern delegation, fearing a southern domination, found this ratio insufficient and asked for at least 50 percent representation in the central legislature. It was stated by a Northern delegation that if this demand of a parity of representation was not satisfied, the North would ask for separation from Nigeria. Although the Southern delegates opposed this demand, the bluff was seen and northern demands of representation were met under the 1951 Constitution. The new electoral system also ensured that only the Northerners could participate in elections in the Northern Province (Ayoade, 1973: 65-66; Tamuno, 1970: 564-568). In 1966, following the second military coup, the delegates from the Eastern Region, the Western Region and Lagos proposed that the constituent units should be granted a right of secession in the Constitution. The Northern delegates, who asked for a similar proposal, later withdrew from it whereas the delegates from the Mid-West opposed such a clause. Through subsequent amendments to the Constitution, the Military Government was empowered to take necessary steps against a declaration of secession (Tamuno, 1970: 580-581).

In the Constitutional Conference of 1953, the Northern Province asked the separation of Lagos from the West and the Western Province threatened to secede in case of a Northern secession. Ayoade notes that by demanding the separation of Lagos, the North attempted to neutralize Lagos before the Northern Province secedes from the federation. However, the Northern attempt failed (1973: 67-68). Following the increasing tensions between the North and the East, the East threatened to secede in 1964. However, the East also withdrew its demand on secession after the formation of a broad-based government including the East (Ayoade, 1973: 69-70). In 1967, Kirk-Greene informed that there was a widespread feeling both among the Igbos of the Eastern region and the Hausas of the Northern region that the two cannot live together within a single nation. The increasing inter-ethnic tensions following the first military coup and the killings of several Igbo people in the North explains the very sources of the discontent among the Igbo population. After the first coup led by Igbo officers, several Northern civil servants felt threatened by the well-educated southerners and many Igbo settlers in the North were attacked and killed. This was followed by an immigration of several Igbos from the Northern part of the country to the East. Six months later, Northern officers led another military coup which was followed by the killings of several Igbo officers. The demand for secession of the Igbo leaders intensified after Gowon era which strengthened Northern dominance and the second wave of massacres of the Igbos in September 1967. However, it is also argued that major causes of the civil war predate the military rule in the controversy over the census results of 1962 and 1963 -there were the allegations of over counting in some parts of the country- and on the federal elections. Attempts of compromise have failed and on May 1967, the former Eastern Region was declared as an independent state of Biafra by the Military Governor of the Eastern Region, Lieutenant-Colonel Odumegwu Ojukwu. Biafran secession from the federation was followed by a civil war between Nigerian and Biafran forces which ended after thirty months with "Biafra's surrender" (Adamolekun, 1991: 5; Nze and King, 2005: 230-231). Territorial integrity of the federation was, thus, maintained.

Odumegwu Ojukwu used the bargaining tool of secession as an end and "overstepped the boundary of negotiable secession into actual secession." Before 1967, secession was only used as a threat to receive political gains (Ayoade, 1973:

71, 74). Ayoade notes that self-sufficiency of the regions in the 1950s and 1960s explains the secessionist tendencies of the time. The mineral wealth of the Northern Region increased the feeling of economic viability in the region especially in the period between 1950 and 1953. Between the years of 1953 and 1957, the rise in the world price of cocoa made the Western Region to “perceive itself rich enough to finance itself as a sovereign state. It argued that it was contributing more to running the federation than it ever gained from it.” As for the Eastern region, the discovery of mineral oil in the East partially explains the demand of secession. This time, the Eastern Region felt that its demand of secession was right since it was the providing the greatest contribution to the Federation but could not get equal political capabilities (1973: 72). However, other factors contributed to the demands of secession in all three provinces of the Federation. The Southern Provinces (the East and the West) feared Northern political dominance due to the North’s majority in terms of population which, in their view, could not be eroded by (rigged) elections. At the same time, the North feared a likely dictatorship of Southern minority given its lead in educational qualifications at every level (Ayoade, 1973: 73). These concerns explain the north-south confrontation between the administratively developed North and the industrialized South. Before proceeding to the following part which analyzes the historical and cultural roots of the conflicts between the two regions, it should be noted that apart from the three largest ethnic groups, minorities in these regions also agitated for their own states. This issue on the establishment of new separate states for minority groups will be better elaborated within the next chapter. However, here, suffice it to say that following the Biafran War, no secessionist attempt was experienced in the country. The means through which self-determination demands of certain ethno-regional groups were satisfied is explored in the following chapter.

4.3.2. The Regional Divide: North-South Confrontation

Nigeria was a former British colony and all Nigerian colonial territories were under the control of the Colonial Office. However, under British rule, different parts

of the country were administered by different political institutions.¹⁴⁰ The plurality of political and administrative structures produced regional rivalry which was inherited by the post-independence Nigerian state. In early twentieth century, diverging forms of administrative systems in Northern and Southern parts of the country was sustained through the policies of subsequent Governor Generals in the North and South. For example, in the North, Lugard, the first High Commissioner of Northern Nigeria developed a system of indirect rule and preserved Islamic polity of the North. This system was maintained following Lugard's departure and the emirates were isolated from external influence. On the other hand, the earlier contacts of Southern Nigeria with the outside world and trade relations with European countries had created an educated African class. Increasing commerce also led the construction of new railways and roads in the province. That is, while the North was administratively developed despite its financial deficit, the South had a surplus but remained administratively in chaos (Afigbo, 1991: 13-17; Ballard, 1971: 334-335). Although Lugard's Amalgamation of 1914 sought to find a remedy to these differences, it created more problems (Tamuno, 1970: 565). Remember that, these groups lacking a common history and culture were merged in a single country involuntarily, or in Afigbo's words, by a "reluctant amalgamation" (1991: 22).

Over time, the northern native administrative system was extended to the south. However, the northern and southern protectorates were separately governed for fourteen years and therefore, the different policies of colonial administration continued their dominance. During this time, northern bureaucracy demanded a separate development of the north and even called for a separation from the south. Moreover, while in the north, the state officials spoke Hausa, southern bureaucracy spoke English. This distinct and independent administrative development between the north and the south continued until the present day. In fact, the North and the South were not effectively united and this perpetuated the cultural differences between the Northern and Southern Provinces (Coleman, 1960: 46-47).

In addition to different administrative traditions and sharp cultural differences, the demographic dominance of the North is also a source of conflict

¹⁴⁰ For the roots of different traditions of administration in Nigeria, see especially the pages of 17-20 in Afigbo, A.E. (1991). *Background to Nigerian Federalism: Federal Features in the Colonial State. Publius*. 21(4).

between the two regions. As discussed before, Nigerian censuses have been controversial including the 1963 national census which confirmed the numerical majority of the North. The census indicated that the northern region had a greater number of people than the three southern regions.¹⁴¹ During Nigeria's First Republic (1960-1966), the Northern region had a larger territory than the other regions as well. The North had 79 percent of the country's total area, Eastern region had 8,3 percent, the Western region had 8,5 percent and the Mid-western region had 4,2 percent (Elaigwu, 2002: 74). This has led the concentration of power in the northern region who could dictate the national policy despite the opposition of the other regions (Odetola, 1978: 182-183). Ojo reinforces the argument that this structural imbalance favors the northern regions by presenting empirical data. The data indicates that it is mostly Northern leaders who governed the country more than the others both during military and civilian rules. Since independence, the Northern representatives also constituted the majority in the Federal Executive Council (2009: 390-391).¹⁴² Here, the efforts of Northern politicians to place northern civil servants in higher federal posts are also important (Mustapha, 2007: 6).

This structural imbalance generated fears and suspicions among Nigerian ethnic groups. The South feared the domination of a more populous Northern rule especially due to its large population because ethno-regional politics at that time would not allow the South to control political power at the national government. At the same time, the Northern region feared Southern domination in the economic and public service sectors. This is related to the fact that the South encountered with the Western education earlier than the North which led southern domination on the strategic sectors of Nigerian economy, particularly the bureaucracy. The South also had earlier contact with the Western world in terms of commercial relations given the

¹⁴¹ The 1963 census indicated that the country had a population of 55,6 million, however, this figure is assumed to be an over-count (Tamuno, 1970: 57). The census also demonstrated that the Northern Region had a population of 29,8 million whilst the population of the Eastern Region was 12,3 million, the Western Region had a population of 10,2 million and the population of Midwestern Region was 2,5 million. Population Census of Nigeria. (1963). Federal Republic of Nigeria. Combined National Figures, Vol. 3. Federal: Office of Statistics Lagos. pp. 52-57. <http://reclaimnaija.net/cms/census/1963%20Population%20Census%20Figure.pdf>, (01 May 2013).

¹⁴² An evaluation of the data provided by Ojo indicates that from 1966 to 2007, leaders from the northern regions (North-East, North Central, North West) ruled the country for nearly 26 years whereas leaders from the southern regions (once from South-East and four times from South West) governed the country for nearly 17 years and leaders from the Middle Belt ruled the country for nine years (2009: 390).

North was administered by Lugard's policy of indirect rule. This led Northern suspicions that the more prosperous South could easily control occupational sectors in Nigerian economy given their skilled workforce. The South indeed had a larger economic élite group than the North because the oil and related industries were mostly located in the South. Although the country was ruled by Northern military leaders following the independence, the economic marginality of the region increased Northern discontent (Adamu, 2003; Elaigwu, 2002: 74-75; Mazru, 2002: 66; Ojo, 2009: 392).¹⁴³

The North took some steps to bridge the gap in educational qualifications while increasing the numbers of schools and universities in its own region. In 1955, this was followed by the policy of Northernization issued by the Northern Cabinet. According to this policy, Northern Nigerians would be given priority in the appointment to the Northern civil service. Interestingly, if no Nigerian was available to the related post, a European would be appointed rather than a Nigerian from the South. One of the major purposes under this regionalization of the civil service was to increase Northerners in the army and fill their quota of posts in the Federal public service (Kirk-Greene, 1967; 8-9). It is an important argument that the Northern elites could accept their economic marginality as long as they held the political power. However, once the South claimed the political power with the elections of 1999 in addition to its economic supremacy, the North responded by adopting Shari'a law (Mazrui, 2002: 66). Nigerian intransigent ethnic conflicts have yet another dimension of religious divides. Here, the politico-regional north-south confrontation overlaps with the religious conflicts.

4.3.3. The Religious Divide: Muslim-Christianity Division

Northern and Southern Nigeria is also divided along religious lines with the dominance of Islam in Northern regions -except the Middle Belt- and the spread of Christianity in the South -including the Middle Belt which exacerbated north-south

¹⁴³ Nevertheless, some experts hold that this dual structure created a division of functions between the two regions and maintained a balance in Nigerian political system. The Northern political power and Southern economic power counterbalanced each other (Elaigwu, 2002: 75). Sklar also noted that in the early years of Nigerian federalism, the Nigerian constitution gave dominant power to the North, however, the real distribution of power determined by technological development favored the South (1965: 201).

dichotomy¹⁴⁴ (Ayoade, 1973: 63). Although there are many animists and people having indigenous religions, Nigerian society is more like a bicomunal society (Adamolekun and Kincaid, 1991: 177). Given that the questions on religion and ethnic origins are excluded from Nigerian censuses, we don't have the latest data on religious affiliations of Nigerians. However, as Kirk-Greene noted, the distribution of the religious groups are more important than their overall number. In 1967, about seventy-percent of the population of the North was Muslims, twenty percent were animists and about five percent were Christians. In the West, the population was divided between Islam and Christianity while in the East, roughly ninety percent of the population was Christian and ten percent was animist (1967; 5-6). The aforementioned conflicts between the Hausa and Igbo population before the civil war also have religious "overtones." The concentration of Muslims and Christians from other parts of the country in the army in the Eastern Nigeria partly explains the discontent prevalent among the Igbos and the unease between the predominantly Muslim Northern people and predominantly Christian Igbos (Adamolekun, 1991: 5).

However, the most fundamental of ethno-regional conflicts in Nigerian society is on the issue of adopting Shari'a law (the law of Islam) in the Zamfara state in Northern Nigeria or more precisely, the extension of Shari'a to the penal code in twelve out of nineteen Northern states and the violence provoked by this development.¹⁴⁵ The central government and Christians living both in the Northern and Southern Nigeria widely criticized the application of Shari'a as penal law extension starting in late 1999 by the Zamfara state in a country like Nigeria which claims to be secular (Bolaji, 2009: 114). On the other hand, the Northern states which adopted Shari'a claimed that they used the constitutional right of Nigeria's Muslim

¹⁴⁴ Adamolekun (1991: 9) and Adebani (2011: 34) oppose the usage of "Muslim North" and "Christian South" prevalent within the literature by proposing a counter-argument that it does not represent a more complex reality. Adamolekun notes that at that time, under the 21-state structure, the Muslim population was dominant only in six out of the eleven states in the North whereas Christians were dominant in eight states out of the ten states in the South (1991: 9).

¹⁴⁵ Tensions arose when the governor of Zamfara state, Alhaji Ahmed Yerima Sani introduced Shari'a as a basis of criminal justice in late 1999, a fact which was followed by the subsequent riots and violent clashes when the eleven other Northern states attempted to introduce Islamic legal code (Adebani, 2011: 30). The states that followed Zamfara are Kano, Katsina, Niger, Bauchi, Kaduna, Sokoto, Borno, Gombe, Kebbi, Jigawa and Yobe (Bolaji, 2009: 114).

citizens of legislative competence (Bolaji, 2009: 127; Sanneh, 2003: 235).¹⁴⁶ In early 2002, some Christian groups demonstrating the incident in Kaduna met with resistance by Muslims. As contrary to the earlier religious crisis in particular parts of the country, many tragic incidents -including the killings of many people and destruction of churches as well as mosques- quickly spread to various cities in the entire country. Some minority ethnic groups from the rich oil-producing Niger Delta, from the South-South zone, pressured for the withdrawal of oil revenue from the federation account transferred to the states implementing Shari'a law (Abubakar, 2001: 34).

Originally, the Islamic law began to operate in the Hausa states starting from the fifteenth century and especially through the activities of the Sokoto Caliphate, the Islamization of many aspects of law took place by the nineteenth century. (Christelow, 2002: 187).¹⁴⁷ In the pre-colonial era, Shari'a was used as a basis for criminal law while local customs was a source of property law (Christelow, 2002: 188) however, during the colonial period; the usage of Shari'a was confined to the personal law and customary law. The British opposed the extension of Shari'a to the criminal law although supporting its development as a civil law. The colonial authorities by that era supported the monopoly of the state in criminal justice. After the end of colonial rule and the rise of nationalist aspirations, the Northern demands of the application of Shari'a were reasserted (Sanneh, 2003: 235-236). By late 1940s, the debate over Shariacracy (Mazrui, 2002: 65)¹⁴⁸ -which is still a burning issue- has

¹⁴⁶ The protagonists of the Shari'a law back their claims for legitimacy and constitutionality by referring to specific provisions of the 1999 Constitution. For example, Ch. IV, 38(1) of Nigerian constitution ensures that every person has a right for freedom of religion. Chapter VIII, Sc.2-B(275-1) also provides that "there shall be for any State that requires it a Shari'a Court of Appeal for that State." Against these arguments, the opponents assert that the proclamation of Shari'a criminal law seriously violates the constitutional provision which indicates that: "the Government of the Federation or of a State shall not adopt any religion as State Religion" (Ch. 1, Sc. II(10)) while the adoption of Islamic criminal law can be evaluated as a state religion despite the fact that Nigeria does not have an official state religion. Moreover, Section 277 of the Constitution authorizes the Shari'a Court of Appeal in federal states for civil jurisdiction. Therefore, these courts "exercise such appellate and supervisory jurisdiction in civil proceedings involving questions of Islamic personal Law." From this provision, it is apparent that the Shari'a Court of Appeal do not have jurisdiction on criminal cases. Relatedly, for an interesting analysis on the arguments of the adherents and opponents of the extension of Shari'a to criminal law, see Nmehielle, 2004: 730-759.

¹⁴⁷ The spread of Christianity in Nigeria also started in the fifteenth century when Roman and Catholic missionaries visited the coastal areas of the Niger Delta region. However, the real Christian evangelization expanded in mid-eighteenth century (Onapajo, 2012: 45).

¹⁴⁸ Shariacracy is defined by Mazrui as "the governance according to the norms, principles and rules laid down by Islamic law" (2002: 66).

been a persistent and critical source of crisis in Nigeria (Christelow, 2002: 187). Especially in late 1970s and late 1980s, Northern leaders insistently campaigned for the use of Shari'a as the basis of criminal law (Bolaji, 2009: 121).

The extension of Shari'a from personal law to criminal law led increasing disagreement between the Muslim and Christian population and further divided the country along religious lines. Many people have lost their lives in the incidents and reprisal violence in many parts of the country ensued when the Igbo governors called to retaliate against the killings of many Igbos (Adebanwi, 2011: 29-30, 35). In such an environment, experts point out that the problematic nature of Nigeria's citizenship clause which is based on indigeneity is compounded by the extension of Shari'a.¹⁴⁹ The adoption of Islamic penal law furthers an already existing hierarchical citizenship by defining citizenship on religious lines. Although Shari'a is not applied to non-Muslims living in these twelve states which embraced Islamic criminal law, these people are still disadvantaged against this Islamic conception of citizenship. It is also argued that religious minorities, especially Christian groups suffer discriminations and restrictions in particular areas including land accessing and educational facilities in these states (Bolaji, 2009: 123-124).

Adebanwi investigates the articles in four major newspapers which represent different ethno-religious groups and one newsmagazine on the Shari'a. Among the newspapers, *Weekly Trust* and *New Nigerian* represents mostly the Islamic North, *The Guardian* which is accepted as a voice for secularism represents Christian minorities in the South and *Post Express* represents Igbo population and Christian interest. The newsmagazine, *The Tell* defends Yoruba/Southern/Christian interests. The articles in these resources are important given that they reflect the religious attitudes prevalent in the ethno-religious groups that they represent. From this short introduction and from the writings of Adebanwi, it is clear why the *Tell* defined the attempt of the Zamfara state as a "political bomb" which will increase the tensions within the entire country, *the Guardian* described it as a threat to democracy and national unity while the *Post Express* defined the Shari'a law as a "treasonable

¹⁴⁹ Here, it is necessary to note the citizenship clauses of Nigerian constitution. The indigeneity principle which is the basis of Nigerian citizenship is reflected under Chapter III, 25(1) of the Constitution which defines citizenship of Nigeria by birth. A person is Nigerian if his/her parents or grandparents "belongs or belonged to a community indigenous to Nigeria." This provision defines citizenship in terms of one's place of origin not in terms of residency.

legislation.” On the other hand, *New Nigerian* defined the opponents of the application of Shari’a law in some Northern states as “ignorant people and mischief-makers” whereas *Weekly Trust* defined opposition among the Igbo people against Shari’a as an attempt to provide “Igbo hegemony” in the country (2011: 30-35).

Some scholars evaluate the institutionalization of Shari’a in Northern states as a form of asymmetrical federalism¹⁵⁰ (Bolaji, 2009; Mazrui, 2002). Mazrui arrives to this conclusion by comparing Nigerian case with the prominent examples of asymmetric federations including that of Canada where, in his argument, “the French language is the Shari’a of Quebec” (Mazrui, 67-70). By considering the components of asymmetrical federalism discussed before, it is clear that this type of federalism was arrived in Nigeria in the absence of an inclusive constitution-making process through a unilateral act which opposes the very principle of bilateralism in any form of asymmetric federalism (Bolaji, 2009: 122). Nigerian federalism is asymmetrical in the sense that while the country claims to be secular, some of its constituent units are theocratic in their application of Islamic law to criminal cases in the absence of constitutional backing. As discussed before, Mazrui evaluates the politics of Shariacracy by offering an economic analysis which points out the economic marginality of Northern countries. In Mazrui’s analysis, Northern African countries are the periphery of Nigerian economy and the Northern attempt to institutionalize Shari’a is actually a part of a broader protest against regional economic inequalities (2002: 66). Some experts offer a rather different explanation to the emergence of the Shari’a crisis. According to that, following the Olusegun Obasanjo government after 1999 presidential elections, most of the Muslim commanders in Nigerian army was expelled and was replaced with Christian officers. Together with the building of a chapel in the old place of three mosques, this increased the fears of Muslim activists that Christians have a “hidden agenda.” The introduction of Shari’a law in some Northern states can thus be evaluated as an attempt to “check mate” against this Christian threat (International IDEA, 2000. 82).¹⁵¹

¹⁵⁰ Remember that in an asymmetrical federalism, one or more constituent units are constitutionally granted special powers or responsibilities.

¹⁵¹ On the other hand, Christian activists raise their concerns on some issues including the use of state resources to subsidize Islamic activities and Muslim political hegemony in political life as well as in armed forces (International IDEA, 2000. 82).

Whatever the diverging arguments on the issue are, it is clear that the controversial membership of Nigeria to the Organization of the Islamic Conference (OIC) further increased ethno-religious tensions in the country. Powerful Muslims in Nigeria pressured and lobbied the central government to join the OIC; however, the government refused such demands in the seventies and early eighties until 1986 when Nigeria secretly became the forty-sixth member of the OIC under Babangida government. It was done without consulting Christian ministers in the executive or the public. The controversy over the issue polarized the country along religious divide (Falola, 1998: 95-96), Christian population terrified that Nigeria could eventually turn into an Islamic state and many Christian leaders, therefore, condemned the initiation (Bolaji, 2009: 128). They argued that the membership violated freedom of religion, and hence, called for the withdrawal from the OIC membership while Muslims supported the membership. In response to the following crisis which increased the north-south divide, Nigerian government set up a committee which was headed by a Christian from the central Nigeria and included representatives from different religious groups to investigate the implications of the membership. The Christian community was surprised when the Committee released its report which concluded that the membership to the OIC does not imply that Nigeria will become an Islamic state (Falola, 1998: 96-98). Despite the discontent of the Christian population against the report's conclusions, Nigerian government did not step back and tensions ensued between the Christian and Muslim communities over the issue of continuing membership to the OIC in addition to the controversy on the application of Islamic criminal law.

In late 2000s, the OIC issue resurged and in 2008, Christian Association of Nigerian in the 19 Northern States stated that it would resist Nigeria's membership of the OIC. Secretary General of the association Elder Saidu Dogo criticized the secrecy in government's each initiative related to the OIC despite the national character of the issue. Dogo claimed that the country should also become a member of the World Council of Churches which, he says to be the equivalent of the OIC (Shiklam and Okonkwo, 2008). Many other political and religious leaders from the Christian community including Emele Uka, the Prelate of the Presbyterian Church of Nigeria

John Oladapo and the President of the Ondo State Baptist Conference¹⁵² called Nigerian leaders to resolve the crisis generated by the membership of the organization by Nigeria by withdrawing the membership and returning to a secular state as the country once was. He defined the membership as a systematic violation of Nigerian Constitution and as an attempt by previous leaders to Islamize the country (Oladoyinbo, 2012; Utip, 2012). In his column in *Weekly Trust* (2012), Kperogi argues that although Nigerian Christian population has a valid reason to question the membership of the OIC, there is great danger to misrepresent or even to misquote the words of Nigerian political leaders in an effort to create a “religious hysteria.”¹⁵³

The federal government is criticized for not taking concrete steps against the illegality and unconstitutionality of the implication of Islamic penal code (Nze and King, 2005: 236). The failure of the central government to resolve this ethno-religious crisis is attributed to its weakness (Bolaji, 2009: 125-126). Although the government first declared the use of Islamic criminal law as unconstitutional, it now hesitates to start a major conflict over the issue (Bolaji, 2009: 124; Nmehielle, 2004: 754). The federal government, thus, developed informal mechanisms to ease tensions between Muslim and Christian community (Nze and King, 2005: 236). The intention of the Nigerian federal government on its declaration of Nigeria a secular state was an attempt to create a neutral ground on which all ethno-regional and religious groups can cooperate (Adamolekun and Kincaid, 1991: 177). However, the disturbance among the Christian community both against the extension of Shari’a to the criminal law and to the controversial membership to the OIC continues. The Organization claims to be “the collective voice of the Muslim world” with the aim to “ensure to safeguard and protect the interests of the Muslim world.”¹⁵⁴

Throughout late 1990s and 2000s, ethno-religious riots which cost the loss of many lives spread quickly to various Nigerian cities. It was reported that in 2010,

¹⁵² Oladapo spoke in the name of the Nigerian Baptist Church.

¹⁵³ In his article, Kperogi opposes the recent misrepresentation of the words allegedly used by Nurudeen Mohammed, the Minister of State for Foreign Affairs in an interview after the OIC meeting in Saudi Arabia. Mohammed is accused for using the phrase of “Nigeria is one of the most Christian-populated Islamic nations in the world”, while instead, he actually said “We are the largest Islamo-Christian country in the world” as reported by Kperogi although the latter also reflects the strange choice of words he did.

¹⁵⁴ See the Official Webpage of the Organization at: <http://www.oic-oci.org/home.asp>

hundreds of people died in the ethno-religious violence between Muslims and Christians in the Nigerian city of Jos and thousands were displaced while 1,000 died in a riot in 2001 in the same city. Mosques and churches have been burnt in the violence which spread beyond the boundaries of Jos -which lies between the Northern and Southern Nigeria- to neighbouring areas (*BBC News*, 20 January 2010 and 8 March 2010). *BBC News* reported that on mid-May 2013, Nigerian government sent a “massive deployment of men and resources” in order to combat Islamist militants in three north-eastern states, Yobe, Borno and Adamawa where a state of emergency was declared by President Goodluck Jonathan. Boko Haram, a pro-Shari’a militant group¹⁵⁵ is held responsible for much of the violence (15 May 2013).

From the above writings, it is clear that the debate on Shari’a and the membership to the OIC will continue to occupy Nigerian political agenda, erode national unity and further divide the country which was already fractured along religious lines if the Nigerian government will not take concrete steps to ease religious tensions. In response to the criticism from various parts of society, the Nigerian government should intervene to this delicate issue and find a new formula to satisfy the demands of both parties. This may be achieved through a broad-based dialogue where the political and religious leaders from all Nigerian states will have a say in the process. As for the management of Nigeria’s ongoing ethno-regional conflicts, the sources of these conflicts should be addressed by eliminating the educational, administrative, bureaucratic and socio-economic gap between different states and regions and by establishing mechanisms to provide inter-group dialogue.

¹⁵⁵ Boko Haram is a fundamentalist Islamist group based in the north-east Nigeria. The word “haram” comes from Arabic and means “unlawful or forbidden according to Islamic code” while “boko” refers to (secular) Western education. Boko Haram thus, means “Western education is forbidden” (Newman, 2013: 2-3). The establishment of Boko Haram is preceded by another Islamist militant group, Maitatsine which was active during 1980s. It is argued that the incapacity of the Nigerian government and the lack of political will led the recurrence of Islamic extremism in the country. Boko Haram was established in 2002 in order to establish Shari’a law not only in Northern parts of the country but in whole Nigeria. The group started riots in July 2009 and from this time until today, it initiates violent attacks against Christians while also destroying churches, government buildings and schools (Adesoji, 2010: 98 and 2011: 98). It is possible that the problem will intensify and the religious conflicts between Nigeria’s Muslim and Christian population will increase when some Christian leaders began to call for retaliation (Manni, 2012: 44). In a recent newspaper report, it was stated that Abubakar Shekau, the leader of Boko Haram said that he supported the attacks on several schools in north-east Nigeria in recent weeks and threatened to kill teachers teaching Western education (The Washington Post, 13 July 2013).

Otherwise, the existent debates will generate more intense and violent conflicts in the years to come.

“The politicization of religion or the religionization of politics in Nigeria” has been long-debated within the academia (Onapajo, 2012: 42). This produced arguments like the following argument: The fact that Nigeria today is a half-theocratic and half-secular state proves how poorly disintegrated the country is (Bolaji, 2009: 131). In addition to the debate on the secular character of the state, Nigeria is highly divided along ethnic lines. However, Nigeria’s conflicts also have an ethno-religious character as ethnic and religious identities sometimes coincide with each other. It was noted that while Islam is predominant in Northern part of Nigeria, Christianity is predominant in Eastern Nigeria and the Western Nigerian population is divided between Christianity and Islam. These are the areas where respectively Hausa/Fulani, Igbo and Yoruba are the dominant ethnic groups. Nevertheless, Nigeria’s ethnic conflicts do not carry only religious character nor do they contain the prevalent tensions only among the three major ethnic groups. Instead, there are many conflicts between these majority groups and minorities.

4.3.4. The Ethnic Divide: Three Regions and Minorities

The part on the origins of Nigerian federalism explained the history of the division of Nigeria into administrative units. The three-region structure introduced by the colonial administration and strong regional units produced “the regionalization of nationalism” (Coleman, 1960: 48) and marginalization of minorities against the dominance of three largest ethnic groups living in the boundaries of three regions. During colonial rule, regional sectionalism was maintained as a political strategy in order to prevent the emergence of a pan-Nigerian nationalism as well to strengthen colonial rule which emphasized differences among Nigerians. For example, through the Land and Native Rights Ordinance of 1910, the Northern ethnic groups were separated from their southern counterparts by discouraging immigration of southerners to the north and by establishing Sabongari –as similar to bantustans– where southern migrants lived separately in the North. The post-independent Nigerian elites sustained this identity politics for their practical interests and manipulated ethnic differences. Together with the colonial legacy, this preference led

the emergence of many conflicts between Nigeria's ethno-regional groups such as the Hausa-Kataf, Hausa-Mambilla, Jukun-Tiv, Kuteb-Jukun, Hausa-Mambilla, Ogoni-Andoni, Ijaw-Itsekiri, Ijaw-Ilaje, Urhobo-Itsekiri, Kuteb-Jukun and Jukun-Tiv (International IDEA, 2000: 92-94).

Today, there are many divisions and conflictual ethnic relations between the three majority ethnic groups of the country, the Hausa/Fulani, Yoruba and Igbo. Mustapha argues that due to the numerical and hegemonic strength of these groups, Nigeria can be said to have a tripodal ethnic structure (2007: 3). This structure has a twofold impact in Nigerian society. On the one hand, these three dominant ethnic groups compete with each other for preponderance in government mostly to receive more political and economic resources and try to preclude their marginalization in case of the alliance of other groups. On the other hand, the ethnic minorities are forced to align with these three groups due to the latter's dominance in Nigerian politics (Mustapha, 2007: 3; Ugoh and Ukpere, 2012: 6773). Moreover, given that each political party has its power base in its own region, "each sought to consolidate its powers within the major ethnic group of such region and thus neglected the needs and demands of minority groups" (Odetola, 1978: 182-183).

The preceding parts mentioned the roots of some of the ethno-regional and ethno-religious conflicts where opposition among these three rival groups sometimes translated into violence. The competition of power and access to state resources leads many intra-communal clashes and political violence while inhibiting inter-ethnic and religious harmony within the country (Ukiwo, 2003: 115-116). Ukiwo notes a 2002 report of the *Tell* which lists forty cases of ethno-religious conflicts following the return to civilian rule in 1999 (2003: 116). Remember the conflicts between Hausa/Fulani and Igbo population in late 1960s during Nigerian civil war and subsequent military coups by Igbo and Hausa/Fulani leaders. This was mostly related to the assassination of Northern leaders by Igbo during that time and Igbo leaders who threatened Hausa/Fulani hegemony in the country. The fear of Igbo domination and competition over scarce resources thus led most of the Hausa-Igbo conflicts. There were also conflicts between the Yoruba and Igbo groups. The former acquired Western education before all Nigerian groups, however, the latter soon overtook the latter by closing the educational gap. Similar to the roots of Hausa-Igbo conflict, this

increased the concerns of Yoruba elites against a likely Igbo domination. The assumed strategy of the Igbo on dominating Nigeria and “Igbo challenge” led Nigerian civil war and inter-ethnic tensions between Igbos and other Nigerian groups (Ukiwo, 2003: 123-124; Uzoigwe, 1999: 10-16).

However, as Ukiwo notes, since the return to civil rule, the conflicts between Hausa and Yoruba became more common than historical conflicts between Hausa/Fulani and Igbo. Many people lost their lives and many ended up homeless in these incidents. The underlying reasons of conflicts between Hausa and Yoruba vary from the clashes over the control of a strategic Market area in Lagos to the outcomes of 1993 presidential elections many of which are related to the loss of political power (2002: 121-122). The annulment of the 1993 elections by the military leader Babangida increased protests especially among Yoruba population as the winner, Chief M.K.O. Abiola was a Yoruba.¹⁵⁶ The inability of Babangida to present credible reasons for the annulment further increased inter-ethnic tensions.¹⁵⁷ In the following 1999 presidential elections, Olusegun Obasanjo, another Yoruba won the elections. It is interesting that Obasanjo’s People’s Democratic Party (PDP) was “rejected” by the Yoruba since he was “conscripted by retired military officers from the north.” PDP won in South-East, South-South and North-Central while winning most of the states in North-East and North-West. However, the Hausa/Fulani leaders complained that he favored his own people who did not vote for him in the elections and discriminated against Hausa/Fulani in appointments. Ethno-religious sentiments increased when Muhammadu Buhari, a Hausa/Fulani and the former military head of state asked Muslim citizens not to vote for a Christian in the next presidential elections.¹⁵⁸ (Okafor, 2013: 6; Ugoh and Ukpere, 2012: 6772; Ukiwo, 2002: 122-123).

¹⁵⁶ Among with many factors, the annulment of the June 12, 1993, presidential elections is accepted as an important source of ethno-religious conflicts in the country (Abubakar, 2001: 34).

¹⁵⁷ See Ajani, 08 June 2013 for a recent statement of General Babangida on the reasons for the annulment of June 12 Elections.

¹⁵⁸ Nevertheless, Obasanjo won the 2003 presidential elections while receiving the support of South-West zone where the Yoruba predominantly populated but did not vote for him in the earlier 1999 presidential elections. This time, Obasanjo’s People’s Democratic Party lost much of his support in the Northern zones against All Nigeria People’s Party (ANPP) but PDP still received 57.87 percent of all votes in North-Central Zone; 43.85 percent of the votes in North-East zone and 30.38 percent of the votes in North-West zone (For some empirical data on 2003 Presidential Elections, see,

In addition to ethnic conflicts between Nigeria's three largest ethnic groups, there are also cleavages between the members of these groups and minorities especially in the Niger Delta region. Since 1999, most of the conflicts in the Middle Belt were experienced between Hausa/Fulani and other ethnic groups in the region. However, there were also violent clashes between Middle Belt groups which erupted from the desire to hold economic and political power like the conflicts between the Azare and Tiv in Nasarawa state and between the Tiv and Jukun especially in Benue state (Ukiwo, 2003: 126). There were also violent conflicts in Benue, Plateau and Taraba States in Middle Belt between the ethnic groups of Tiv, Jukun, Etulo, Kuteb, Berom, Afizere, Anaguta, Taroh, and Hausa related to the fear of some ethnic groups of their linguistic endangerment (Ioratim-Ubo, 2009). Some of the conflicts erupted due to the controversy of medium of instruction in particular schools or the downgrading of minority languages against English and major regional languages while some of them occurred due to political reasons where linguistic concerns contributed in causing violence (Ioratim-Uba, 2009: 437-441).

In addition to the structural and administrative inequalities in Nigerian society, economic imbalance also plays an important part in increasing inter-groups cleavages. In this respect, the sharing of oil revenue is a significant source of conflict among Nigeria's ethnic groups. This is a problem especially between Nigeria's marginalized and impoverished minorities in Niger Delta and major ethnic groups. Discontent of ethnic minorities of the Niger Delta over the sharing of crude oil revenue derived from their land, the underdevelopment of the region and their political marginalization has long been neglected. As Quaker-Dokubo persuasively explains, this is attributed to the minority status of the Niger Delta people who accuse the major ethnic groups from their underdevelopment and federal government from undermining ethnic minority interests. Communities in the Niger Delta blame these major ethnic groups for cooperating with oil companies and for using oil wealth to develop only their own regions while ignoring the minority states of Niger Delta, namely, Rivers, Bayelsa, Delta, Edo, Cross River and Akwa Ibom from which oil is derived. The region is also underdeveloped in the sense that years of oil exploration degraded their environments, left the region desolate while also

Ojameruaye at: <http://www.waado.org/nigerdelta/politics/2003elections/President-election/NigerDelta-OjameruayeII.html>).

damaging the farming and fishery industries. These areas lacked basic infrastructure, electricity, roads, schools, hospitals and clean water (Quaker-Dokubo, 2000: 69-74).¹⁵⁹ Not surprisingly, this forms a major source of ethnic conflict and leads various riots in Niger Delta region -such as Ogoni uprising (1990-1993) and Odi direct action (1998-1999)- highly related to economic inequalities.

4.3.5. The Economic Divide: Oil Revenues and Resource Allocation

The main economic resource of Nigerian government is from oil revenues (Ayua, 2005: 331). The dependence of Nigerian economy on oil revenues is so huge that oil revenues constituted between 80 and 95 percent of export earnings since the mid-1970s following the rise of oil price. From 1970 to 1985, the public expenditures were financed mostly from oil revenues (Adamolekun, 1991: 6). Ekpo puts that “National budgets are predicated on the expected annual production and price of crude oil” (2004: 31). This explains why oil dependency is a huge problem in Nigerian political economy. Another problem with the dependence on oil revenues is the fact that as the oil revenues increased, so did the importance of dominating the federal center. The political power meant for Nigeria’s ethnic groups to own everything (Chibueze, 2011: 123). This has fuelled the conflicts among these groups over controlling political power.

The federal government in Nigeria has a strong dominance in the distribution and sharing of national revenues. Some experts draw attention to the concentration of resources at the center and the strength of the federal government in this respect. State governors criticize this strength of the centre at the expense of states and call for more devolution of powers. In addition to the weakness of states in front of the central government, uneven development between regions is also subject to high criticism. Some Nigerian groups claim that the government and its officials discriminate particular groups while favoring others. Due to this economic bias, it is asserted that some groups gain unfair access to state resources. Igbo elites are among those who complain that they were not given equal opportunities to be a part of

¹⁵⁹ It is for these reasons that some experts assert that oil have been a curse for the communities of the region rather than a blessing (Ebegbulem, 2011: 225).

indigenization process of the 1970s. The activists from Niger Delta region also alleged that the northerners were advantaged in having access to oil wealth particularly under the rule of Babangida and Abacha while they could not have a similar opportunity (Mustapha, 2007: 4-5)

This issue is worth analyzing in more detail given that it constitutes one of the major socio-economic problems in Nigerian society. As noted, although Nigerian politico-economic development is based on the oil revenues derived from a few “oil-rich, but ecologically endangered communities in the Niger Delta”, these people cannot benefit from the oil revenues but instead, have been treated as second-class citizens for long years (Quaker-Dokubo, 2000: 72-73). Niger Delta in the South-South zone is an oil-rich region where political violence, corruption and criminality are very high since the 1970s. The sharing of oil-related resources increases inter-group conflicts in the region (Burgess, 2012: 14). However, as many experts including Burgess note, the major socio-political problem is the complaints of minority ethnic groups living in the oil-producing areas that they were impoverished while the region also remained poorer when compared to the national average. These people endure all environmental damage caused by oil industry (Burgess, 2012: 14) but still are among the poorest of Nigerian population.

The people of the Niger Delta region advocate a fair share of Nigeria’s wealth and more resource control in their own region. The environmental degradation and high unemployment resulted in many displacements and migration. The fact that oil companies like Chevron, Agip, Shell and Mobil do not create a job market in the area since they do not hire their employees from the Niger Delta region but from other non-oil producing regions further contributes to the unemployment rates in the region (Ebegbulem, 2011: 218, 226; Opukri and Ibaba, 2008). Underdevelopment and poverty despite the region’s capacity on wealth generation resulted in the discontent and anger among the Niger Delta region both against the central government neglecting their problems and multinational oil companies exploiting oil reserves. In retaliation, the communities in the region initiated several violent protests, kidnapped the personnel of oil companies, disrupted oil production and seized oil platforms which produced the involvement of national security forces in the incidents (Ikelegbe, 2001: 437-438). The issue on the introduction of a new revenue-allocation

system creates a further controversy between the Southern and Northern regions and between the Niger Delta states and the central government. However, if the grievances of the Niger Delta people over a fair access to resources generated in their region are not satisfied, the region will continue to be a battlefield.

Another argument for the economic disparity among regions is the assumption that Northerners who do not have crude oil in their land own 83% of the nation's oil blocks while leaving only 17 percent to the Southern oil producing states. This seriously violates the federal character principle which assumes the equal distribution of government posts and resources and increases the discontent of the people from Southern zones from whose soil oil is drilled. Another critique against the Northern predominance in strategic ministries is also criticized. It is argued that the North has produced the highest number of Ministers of Petroleum than southern zones (Daily Independent, 21 June 2013). However, it was noted that extreme poverty are more common in Northern states and the South is more developed in terms of economic activities. The fact that Northern states benefited from the import substitution policy of Nigerian government, easily prospered and had an opportunity to establish industries as a part of this policy further exacerbated the already existing divisions in the North and South. Nevertheless, this is also changing with the shift in the government policy from protectionism to liberalization while the people in the North have worse living conditions and higher unemployment rates (Adamu, 2003).

In Nigeria, poverty is an important problem which increased from 42,7 percent in 1992 to 65,6 percent in 1996. Despite the estimation that it declined to 54,4 percent in 2004, it is still high when considering that over 50 percent of the total population (54,4 in exact numbers) are poor. However, the following data will indicate that Southern zones are economically more developed than their Northern counterpart. Poverty incidence is higher in Northern zones meaning that the majority of the poor settled mostly in Northern states.¹⁶⁰ 1980, 1985, 1992, 1996 and 2004 data reveal that poverty rate was higher in Northern zones than the national average.¹⁶¹ In 2001, World Bank estimated that 70,2 percent of Nigerian population

¹⁶⁰ In 2004, poverty was 67 percent in North-Central Zone, 72,2 percent in North-East zone, 71,2 percent in North-West zone, 35,1 percent in South-South zone, 26,7 percent in South-East zone and 43 percent in South-West zone (Aigbokhan, 2008: 15).

¹⁶¹ Only in 1992, national poverty rate was 42,7 while the North-West had a rate of 36,5.

live on less than \$1 per day (Aigbokhan, 2008: 13-15). The 2010 data also indicate that both the ratio of absolute poor and relative poor is higher in Northern zones when compared to Southern zones¹⁶² (The National Bureau of Statistics, Nigeria, 2010: 16). In addition to the very problem of poverty, regional inequality has also increased in the country since 1985. The data provided by Aigbokhan on the years of 1985, 1992, 1996 and 2004 indicate that in 1985 (South-South) and 2004 (South-West and South-South) the inequality was higher in Southern regions. In 1992, North-West was at the first place while North-East, South-East and South-West had the same ratio (2008: 11). According to December 2010 data on the distribution of unemployment rate by states and geo-political zones, South-West states recorded the lowest unemployment rate among the zones. 2011 data verify the earlier one: Five states having the lowest unemployment rate among the thirty-six states are from this zone (Ondo, Ekiti, Ogun, Oyo, Lagos). Northern states have the highest unemployment rate while there are only a few Southern states with a high unemployment rate (National Planning Commission, Nigeria, 42, 134).

In addition to administrative, regional, ethnic and religious divisions between the Northern and Southern regions, the educational gap, economic disparity and sharp cultural differences between the state units increased tensions among Nigerians living in different states. As Ukiwo puts it, “distribution of benefits among the political class depends on the ability of each member of the ruling class to deliver his constituency. In the circumstance, ethnicity, religion and other sectarian identities are exploited, resulting in avoidable conflicts among component units of the country” (2003: 134). In such an environment, ethnic identities can provide many benefits (International IDEA, 2000: 89) and ethnicity-related conflicts are therefore likely to continue. The following chapter will analyze if Nigerian government has failed or succeeded to reduce inter-group and inter-regional tensions and to manage conflicts through federal arrangements. In this process, major conflict management strategies of the federal government have been to increase the number of state units or local governments, introduction of the federal character principle and the adoption of a

¹⁶² Absolute poverty is defined as “a situation in which the individual’s basic needs are not covered, in other words, there is a lack of basic goods and services (normally related to food, housing and clothes)” while relative poverty defines economic inequality in the relevant society. This perspective considers people poor “when they are in a clearly disadvantaged situation, either financially or socially, with regards other people in their environment” (Instituto Nacional de Estadística, 2009: 2).

new revenue-allocation formula. The latter also includes government efforts to resolve issues of economic disparity analyzed under this section and major initiatives for a fair and equal distribution of national wealth.

CHAPTER FIVE

STATES, FEDERAL CHARACTER AND CONFLICT MANAGEMENT IN NIGERIA

“Nigerian political history is full of the antagonism and hostility generated by real or imagined domination felt by groups not well represented in different spheres of national life. These have not disappeared, but new, more constructive channels are being opened up for their resolution” (Mustapha, 2007: 22). Nigerian governments tried various strategies in order to accommodate diversity and achieve national cohesion particularly through reducing or managing ethno-regional and ethno-religious conflicts. An analysis of sources of these conflicts was necessary in order to better evaluate the success or failure of the efforts to overcome these conflicts. Federal initiatives have been an important part in this process when many steps of affirmative action have also been implemented. The first of these conflict management measures includes increasing the number of state units and local governments. When Nigeria gained its independence from the British, it was comprised of three regions, in 1963, with the independence of Mid-West, this increased to four regions, to twelve states in 1967, nineteen states in 1976, twenty-one states in 1987, thirty states in 1991 and thirty-six states in 1996. The number of Nigerian local governments also increased significantly through time. In 1967, there were 96 local governments, but by 1976, their numbers increased to 300. Within five years, the number increased more than two times and reached 774 (Adedokun, 2004 cited in Adedokun, 2006). The fact that state creation in Nigeria is one of the most fundamental conflict management devices makes the issue a major concern of Nigerian chapter. Both military and civilian administrations used it as a vehicle to provide political stability during their rule and to preclude ethnic mobilization or secession. The following section will focus on the (federal) conflict management strategies of the Nigerian governments and seek to analyze if these measures had a positive impact on Nigerian politics and conflict management.

5.1. THE INCREASE IN THE NUMBER OF (FEDERAL) STATES AND LOCAL GOVERNMENTS

There is not an ideal number of constituent units in a federal system, however, the minimum number of federal units has an important factor in the success or failure of federations (Töpperwien, 2009: 6). Experts point out the unstable character of two or three-member federations while holding that federations having few units do not work. As is noted by Zartman, federations composed of two-units may experience harsh confrontations between those units who feel threatened against a likely take-over attempt of the other. Ethiopia, Mali and Czechoslovakia are examples of this type. As Libyan case indicated, in a three-unit federation, two of the units may form an alliance against the other or the federation may simply result in secession (1998: 323). A large number of units can also be problematic since it may lead to the subordination of the center by the federal states (Simeon, 2009: 246) and break the delicate balance of power between national government and state governments.¹⁶³ Federations where one of the federal states holds more than half of the total population or a much larger territory than all others can also be unstable. In any federal system, none of the federating units should be given the ability to dominate the others through any of its capacities, resources or rights (Töpperwien, 2009: 6). This was the case in Nigeria during the three and four-region periods and the problems of this era remained their legacies.¹⁶⁴

Various ethnic groups in Nigeria compete for state resources and political power. This raised the increasing demands for state creation in Nigeria which resulted in the expansion of states from three to thirty six. The initial response of incumbent regimes to the secessionist groups or groups seeking self-determination have been to increase the number of (federal) states or local governments in order to contain these separatist agitations and satisfy demands of representation. At the same time, the proliferation of state units in Nigeria was seen as a significant tool in order to reduce intra-regional and inter-regional struggles. While some of the demands of

¹⁶³ Nigerian central government was almost subordinated by the federating units under three and four region periods.

¹⁶⁴ One of the regions was “big enough” to dominate others as well as the federation (Quaker-Dokubo, 2000: 73-74) and thus, was divided into smaller states. Again, see Appendix 11.

Nigerian ethno-regional communities or minorities have been met, it is impossible to satisfy all of the claims on self-determination. As McHenry, Jr. notes, state creation was also one of the critical issues in Nigerian politics that the military regimes sought to resolve before transferring power to civilians (1986: 92). It is interesting that except the Mid-West Region, all Nigerian states were established under military rule.

5.1.1. State Creation Exercises

State creation was a topical issue among Nigerian entities even before independence. In 1957, a special commission, namely, the Willink Commission was established in order to enquire the fears of minorities demanding the creation of separate states. However, unlike what was expected, the report that the Commission prepared recommended the creation of new states as a last resort which would be used “if but only if, no other solution seems to meet the case.” The Commission’s Report instead suggested constitutional safeguards in order to allay minority fears.¹⁶⁵ However, the groups demanding the creation of more states were not satisfied with the findings of the Willink Report. The minority groups from the northern, eastern and western regions who feared a domination of the major ethnic groups within their region organized in order to insert state creation clauses in the proposed 1960 independence constitution. In the meantime, the majority parties supported the state creation for minorities outside their own regional boundaries. However, despite the efforts for state creation, no new states were created until 1967 except the unique case of Mid-West region (Alapiki, 2005: 54-56).

The debates for the creation of more states increased during the rule of General Gowon who created twelve states out of the existing four regions in 1967 in order to “balance” the North and the South. Under this twelve-state structure, both the North and South were given six states. Gowon created six states from the North and divided both the Western and Eastern Region into three states. This is the greatest multiplication of the number of states in a federal system (Dent, 2000: 162).

¹⁶⁵ See the Willink Commission Report. (1958). Conclusions and Recommendations. London. p. 88. http://eienigeria.org/sites/default/files/files/TheWillinkCommissionReport_conc_recom_lt.pdf, (07 May 2013).

Although this wave of state creation could not prevent the civil war which broke out in 1967 and lasted thirty months while further demand for the creation of more states quickly rose, this measure is assumed to maintain the unity of other parts of the country during civil war (Danmole and Aghalino, 1995: 18).¹⁶⁶ The creation of states for minority groups weakened the support for secession in the Eastern region and hence, contributed to ensure territorial integrity (Suberu, 1991: 501). The creation of Mid-West partially satisfied the state demands of minorities whilst 1967 state creation exercise further satisfied these demands and appeased the concerns of minority ethnic groups on majority dominance against the disproportionate size of the Northern region. Thus, the Northern region was subdivided into six states and the number of states in the South increased from three to six in order to provide a numerical parity between the two parts of the country (Suberu, 1991: 501). The creation of states in 1967 broke, to a certain extent, the numerical and political hegemony of not only the Northern region but also the three majority groups while some of the minority groups were given their own states. This satisfied the self-determination demands of some groups agitating for regional autonomy while granting them another space for representation. Among all the state creation exercises, 1967 experience has been one of the most successful in allaying the fears of minorities over majority domination and managing inter-group cleavages.

However, the fact that there were not any nationwide criteria to be applied in the state creation processes in the first Republic was subject to criticism by state representatives (Alapiki, 2005: 56). Under the colonial rule, the division of Nigeria into smaller administrative units were justified by the official rationale that to bring the government and administration closer to the people was necessary. The earlier postcolonial rationale is similar to that of the colonial era. In 1967, Gowon specified the principles in order to use for the state creation as the following (Alapiki, 2005: 56-58):

- (1) No one state should be in position to dominate or control the central government;
- (2) Each state should form one compact geographical area;
- (3) Administrative convenience should take into account the history and wishes of the people;
- (4) Each state should be in a position to discharge effectively the

¹⁶⁶ In this era, in addition to the increase in the number of states, the separate armies and even separate currencies for each state was also proposed (Kirk-Greene, 1967: 10).

functions allocated to regional governments; (5) The new states should be created simultaneously (Alapiki, 2005: 58).

It can therefore not be wrong to conclude that in Gowon's state creation exercise, political objectives were privileged over economic ones (Danmole and Aghalino, 1995: 19, 1991: Suberu, 501). However, even this twelve state structure did not stop the pressure for more states and less than a decade later, the new military administration found itself with preoccupied with the issue of state creation which was a "burning issue" in the last years of Gowon's rule (Danmole and Aghalino, 1995: 20). The following Murtala/Obasanjo¹⁶⁷ regime organized a panel (Irikefe Panel) in August 1975 in order to "advise on the delimitation of such states; advise on economic viability of the proposed states; advise on the location of administrative capitals of the proposed states and to receive and examine written representations ... on the desirability or otherwise" (Ministry of Information, 1976 cited in Ojo and Adebayo, 2008: 341-342). The Panel held sittings at state capitals as similar to that of the Minorities Commission of 1957 and received approximately one thousand memoranda on the demands for states. Following the report of the Panel which was optimistic on the creation of new states (Danmole and Aghalino, 1995: 20-21), in 1976, General Mohammed announced that the political stability could be enhanced by the creation of more states (*Daily Times*, 1976 cited in Alapiki, 2005: 58). The additional principles which were added to this official statement are as follows:

(6) even development; (7) the need to preserve the federal structure of government; (8) the need to maintain peace and harmony within the federation; (9) the need to bring government nearer to the people; and (10) the need to minimize minority problems in Nigeria (Federal Government Views on the Report of the Panel on Creation of States, 1976 cited in Alapiki, 2005: 59).

However, again, the increase of state numbers from twelve to nineteen states in 1976 could not succeed in satisfying the demands of all groups. Quaker-Dokubo points out the bias in the 1976 state creation exercise by arguing that rather than allaying the fears of majority domination, it further increased the subordination of ethnic minority to majority interest. At least half of the states created under Gowon Administration were ethnic minority states whereas only seven out of the nineteen states were minority-controlled states. New Cross River, Port Harcourt and New Kaduna (Zaria) which were dominated by ethnic minorities demanded their own

¹⁶⁷ It is important to remind that Obasanjo was a Yoruba who had great support from the North and who refused to act like a "tribal hero" (Dent, 2000: 158).

states. Their demands were neglected while some of the homogeneous majority states were divided into two or more states (2000: 74-75). Many state representatives in the late 1970s argued that the creation of states have not been just, the criteria were not applied in a consistent basis, and moreover, unspecified criteria were applied in special cases (McHenry Jr., 1986: 101-103). Moreover, the economic viability principle in the state creation was not respected in 1976 exercise (Danmole and Aghalino, 1995: 21).

McHenry Jr. noted that “in the early years of many federal systems, there is a period during which vigorous political movements seek changes in the number and shape of constituent states. Eventually, sufficient consensus develops to permit a relatively stable territorial configuration.” However, Nigerian case proves quite the opposite where the demand for states did not disappear (1986: 91). In the Second Republic, the Constituent Assembly decided that no new states should be added to the nineteen-state structure and thus, made the creation of additional states virtually impossible by adopting procedures. However, the Constituent Assembly debates on the draft (1979) constitution have shown that representatives from different states were not satisfied with the existing state structure and called for the creation of more states.¹⁶⁸ Urhobo and Isoko communities demanded a Delta state in Bendel whereas Itsekiri community who feared a likely domination of Urhobo and Isoko communities if a Delta state is to be formed, demanded a Warri state. Ibo-speaking peoples demanded a Niger state, leaders from old Zaria demanded a Zaria state in Kaduna, the peoples from the extreme south demanded a Nassarawa state and Efik peoples of the Calabar demanded a New Cross River state in Cross River. On the other hand, Western Ijaws wanted to merge with other Ijaws within Rivers state. Like Itsekiri community, many of the stated concerns of these people were a likely or existing domination, discrimination or neglect by other people that they cohabit (McHenry, Jr., 1986: 91-99).

¹⁶⁸ Through a content analysis of the Constituent Assembly reports, McHenry Jr. concluded that eighty-one percent of the representatives who expressed their views at the Assembly demanded the creation of new states for the belief that this would promote development, reduce ethnic conflicts or provide stability whereas only 3 percent opposed their creation. One representative argued against state creation by holding that this could generate an infinite increase in the number of states while another representative stated that the proliferation of states would not be viable since all states could not supply necessary resources to operate on their own. But the advocates of the establishment of more states outnumbered the critics (1991: 94-106).

The Constituent Assembly reconvened in 1978 in order to decide to modify the draft constitution especially the provisions on state creation. In the end, state creation were made slightly easier but not to the extent that the representatives asked for. General Obasanjo said that the urgent task was to revolve power to civilian rule and the creation of more states “diverted and distracted” attention. In the Second Republic (1979-1983), the government indeed did not create new states, however, the opposition to this policy continued (McHenry, Jr., 1986: 107-111 and Daily Times (Lagos), 1978 cited in McHenry, Jr., 1986: 110). When General Babangida acceded in 1985, the most urgent issue that he had to address -like the previous military regimes- was the issue of state creation. In 1986, he set up the Political Bureau which ended up with the assumption that creation of a limited number of states could contribute to maintain a balanced and stable federation, to extend the democratization process as well as to solve the major source of inter-group tensions Danmole and Aghalino, 1995: 21-22 and Report of the Political Bureau, 1987, cited in Danmole and Aghalino).¹⁶⁹

The Bureau endorsed the arguments of the Igbo elites that new states should be established from Anambra because earlier state creation exercise favored Hausa/Fulani and Yoruba ethnic groups more. In the debates over state creation, Igbo elites emphasized that only two Igbo states were created in the 1976 exercise against the creation of five states in the Hausa-/Fulani and Yoruba areas. They argued that such a preference disadvantaged the Igbo population and deprived them of the socio-economic and political opportunities provided by state creation. However, the members of the Bureau could not unanimously determine on the number of states or what states to be created. At the same time, all members favored the creation of Akwa Ibom from Cross Rivers and Katsina from Kaduna for the “national interest.” This affected the creation of these two states in 1987 -one in the North and one in the South- with the aim to reduce agitation of state creation in these areas. The result was the same. The military announced that the incumbent administration would not receive any more demands on state creation which was followed another statement that the agitation for states was legitimate. In 1991, nine additional states were

¹⁶⁹ The Report prepared by the Bureau also included the observation of “We do not see any other accommodating and healthier arrangement for Nigeria than the continuation of the system of Federalism” (Report of the Political Bureau, 1987, cited in Adamolekun and Kincaid, 1991: 175).

created with the rationale of “a measure of growth of the Federation”, a justification close to the earlier ones. Four of these states were created in the South, two was created in the Middle-Belt and three were created in the North (Adamolekun, 1991: 3; Danmole and Aghalino, 1995: 22; National Concord, 1991, cited in Danmole and Aghalino; Suberu, 1988: 435 and 1991: 503).

However, some experts warned that thirty-state structure will not eliminate minority problems like the earlier practices (Akinyele, 1996: 91). It was then, quickly followed by another state creation initiative. In 1996, the current thirty-six state structure emerged following the creation of six new states. One of the proposals for the state creation included the basic rationale to alleviate the fears of ethnic domination and to provide even development (Akinyele, 1996: 91). Since the 1996 exercise, no states were created despite the ongoing agitations. Experts analyze the creation of more states from an economic viability perspective and argue that in the existing web of fiscal relations, there is no justification for creating new states because except from Lagos, all Nigerian states are dependent on the revenue transfers from the central government (Oyo and Adebayo, 2008: 351). Moreover, the 1999 Constitution made the establishment of state creation more difficult through detailed provisions.

Chapter I, Part II, Item 8(1) of the 1999 Constitution requires that in order to create a new state, the National Assembly should receive an Act “supported by at least two-thirds majority of members (representing the area demanding the creation of the new State) in each of the following, namely, the Senate and the House of Representatives, the House of Assembly in respect of the area, and the local government councils in respect of the area.” This proposal shall then be approved in a referendum “by at least two-thirds majority of the people of the area where the demand for creation of the State originated” while the results of the referendum also shall be approved “by a simple majority of all the States of the Federation supported by a simple majority of members of the Houses of Assembly.” The proposal is then approved “by a resolution passed by two-thirds majority of members of each House of the National Assembly” (Item 8(1-3)). The adjustments on state boundaries and the establishment of local governments also require similar procedures (Chapter I, Part II, Item 8(2) and 8(3)).

Nigerian governments did not only increase the number of states but they also subdivided local governments and increased their number given that it was impossible to demand each self-determination demand of Nigeria's various ethnic groups. Moreover, Nigeria's diverse groups, thus, were given another space for representation through local government councils. As experts point out, the establishment of local governments and strengthening them can help to balance strong regions (Simeon, 2009: 249). Under Babangida's government, the number of local governments has increased three times, from 304 to 589 (Adamolekun, 1991: 3). The 1999 Constitution maintained 768 local government areas (LGAs) (First Chapter, Sc. I(3(6)) while there are now 774 local government areas in the country.¹⁷⁰ LGAs are established based on the population and land mass of the related areas. Today, local governments play a very important role in national development because the area that they are responsible for governance represents about 70 percent of Nigerian population. Moreover, local governments receive 20 percent from the federation account (Adedokun, 2006).

In time, there emerged a perception that local governments could be alternatives to states as developmental centers. Not surprisingly, this increased the demands for the increase in local governments (Osaghae, 1992: 195) and generated critiques on the number local government areas in Nigeria's six zones and thirty-six states.¹⁷¹ Indeed, there is an imbalance in the distribution of Nigeria's local government areas among states.¹⁷² For example, the following states of Kano, Katsina, Jigawa, Borno and Niger have respectively 44, 34, 27, 27 and 25 LGAs. Four of these states are in the North-West zone while the latter is in the North-Central zone. There are 419 local government areas in the Northern zones while the Southern zones have 355 local government areas.¹⁷³ These numbers are important since as in the case of federal states, the more LGAs a state have the more revenues it

¹⁷⁰ For the list of the names of these local government areas, see Schedule 1 (Part 1) of the 1999 Nigerian Constitution.

¹⁷¹ See for example, Daily Trust. (24 January 2013). Voices from the Daily Trust Dialogue Floor. <http://dailytrust.info/index.php/news/10th-annual-trust-dialogue/609-voices-from-the-daily-trust-dialogue-floor>, (20 May 2013).

¹⁷² For the distribution of these LGAs among Nigeria's six geo-political zones, see, Appendix 12: Nigerian Local Government Areas.

¹⁷³ The numbers are calculated by using the data provided by the National Population Commission, Nigeria (2010: 8).

will receive from the federal government. However, despite the fact that the demand for new states is still a contentious issue in Nigerian politics, since 1996, neither military nor civilian administrations did create additional states and the local government numbers did remain constant within the last years. Many politicians and ordinary Nigerians criticize the state creation exercises for various reasons.

5.1.2. Critiques against the State Creation Exercises

The drawing of state boundaries is a very important but a still neglected issue, however, “once drawn, boundaries quickly become very difficult to change as interest and identities coalesce around them” (Simeon, 2009: 246). Many state leaders have been critical of Nigerian state creation entrepreneur and under Babangida’s government; this dissatisfaction was expressed by widespread protests while some of them turned into violent demonstrations. Both the boundaries of the new states and the location of their capital cities were subject to criticism (Adamolekun, 1991: 10). The intensity on the debates over state creation exercise is mostly related to the fact that statehood has been an important structural means to provide a range of socio-political opportunities as well to receive a considerable amount of wealth from the federation account. Even the application of federal character principle depends on state representation in various government institutions (Suberu, 1988: 434; 1991: 500-501).

The issue of multiplicity of state and local governments in Nigeria and conflicts related to this exercise are well documented in the literature. In different time periods, students of Nigerian federalism had diverging views on the increase in the number of states. Some academics argue that this increase has contributed to the national integration of the country by reducing intergroup hostilities. It is also asserted that the expansion in the state numbers supposedly increased the effectiveness and legitimacy of the federal system in Nigeria (Odetola, 1978). Adamolekun and Kincaid note that the increase in the number of state and local governments “provides opportunities for citizens to give expression to their sense of belonging to the nation as well as to a smaller community composed of familiar people” (1991: 176). On the other hand, Danmole and Aghalino stress both the negative and positive aspects of state creation in Nigeria. According to the authors,

creation of states did not satisfy all interest groups, however, the policy is one of the most important achievements of the military (1995: 16).

Another group of experts question the functionality of state creation from different angles. Afigbo (1991: 14-15), for example, argues state numbers increased without considering “the integrity of micro-regions already clearly defined and delimited by geographers.” In only a few Nigerian states, there is a relative national homogeneity (as Anambra, Imo, Oyo, Ogun and Lagos) while the others are composed of different ethnic nationalities (as Rivers, Bendel, Kwara, Plateau, Kaduna, Gongola, and Cross River). However, some politics assumes that a geographical division is necessary -on the basis of nationality or linguistic groups not on ethnicity- in order to provide a perfect union, consolidate national unity and to prevent a domination of one region to the rest (Azikiwe, 1965: 456-457).¹⁷⁴ A group of experts point put the danger that there seems to be no end in state creation as many groups lacking a state or a local council of their own think that having one could bring a higher political status and wealth (Dent, 2000: 162). These concerns especially on fiscal autonomy and its assumed financial benefits increased “a self-perpetuating stream of demands” (Bach, 2004). As Alapiki holds, the creation of more states did not preclude the emergence of new state demands. The author, therefore, assumes that national integration and local autonomy could be achieved by the acts of national leaders who are determined to design a national image instead of regional ones and a true political restructuring of the federation (2005: 49).

In the light of the claims and counter-claims on the creation of more states, it can be argued that state creation has been used as an effective conflict management mechanism and as a counter-secessionist strategy in Nigeria. More importantly, by increasing the number of states, the population of three major tribes has been divided into smaller units in order to preclude ethnic domination as well as to satisfy the demands for more states. Through fragmentation of states from the former regions,

¹⁷⁴ Another argument on the role of ethnic and national boundaries is that Nigerian states are not established along ethnic lines. Nevertheless, the new states which were established by the subdivision of former four regions reflect a close pattern. That is, the inhabitants of five states established in the former Western region are mostly Yoruba, the inhabitants of the five states in the former Eastern Region are mostly Igbo while in the nine states of the former Northern Region the inhabitants are overwhelmingly Hausa/Fulani and the rest of states extracted from the North have a large share of Hausa population. There are smaller ethnic groups in the rest of the states except Akwa Ibom where the people are from one ethnic identity, the Ibibios (Dent, 2000: 164).

the structural imbalance generated from the numerical and political supremacy of these regions -especially the Northern region- could also be removed.¹⁷⁵ However, there are still many groups who are not satisfied from the subsequent state creation exercises while demanding their own states. It was noted in the first chapter that federal arrangements can obstruct the hegemony of particular groups within the society, be they racial, ethnic or religious. The fact that some ethnic groups as well as minorities still complain about the domination of the major ethnic groups within their territory proves the problematic nature of Nigerian state creation.

Nigerian state officials evaluated the creation of states, in other words, the granting of self-governance and local autonomy to certain groups as a way to achieve national integration (Alapiki, 2005: 49-50) and to appease secessionist tendencies. However, here, one should also consider the fact that the increase in the number of state units may strengthen ethnic and regional loyalty through institutionalizing ethno-regional identities. As discussed in the first chapter, by providing an institutional framework of provincial autonomy, the federal government may initiate the foundation of a future secessionist movement. After all, identification through ethnic, religious or regional lines is more attractive for Nigerian groups most of whom do not identify themselves as belonging to a Nigerian state. Transcending these identities is not an easy task given that access to state resources or political power is associated with acquiring one's own state or local government. However, Nigerian federal history indicated that no secessionist attempt was experienced following the 1967 civil war. It simply means that rather than secessionist claims, demands for state or local units has more appeal in Nigerian politics.

Despite all the criticism against state creation, the increase in the number of state units and local governments satisfied at least some of the self-determination demands. Especially the proliferation of the number of local governments increased access points of power for Nigeria's diverse ethnic groups. Nigerian military and civil governments, thus, claimed to achieve unity in diversity since state and local governments allow more representation opportunities for different ethno-regional and ethno-religious groups together with the federal character principle. In this way,

¹⁷⁵ Under the thirty-six state structure, there are seventeen states in Southern zones while Northern zones have nineteen states plus the Federal Capital Territory, Abuja (in North Central).

not only the majority groups but also minority communities have an opportunity for equal and direct representation by sending their representatives to the local councils or to the Houses of Assembly of their states. However, an end had to be put on the creation of states and local governments given that it is not possible to please each and every ethno-regional group in Nigeria in this regard and respect their self-determination claims.¹⁷⁶ The major principles of another existing federal mechanism, federal character principle, were therefore, modified by Nigerian politicians in order to ease conflict-prone ethno-regional and ethno-religious relations. The major debate on the practice of federalism in Nigeria is now mostly centered on the application of federal character principle not on state creation. The following section will evaluate the application of federal character principle together with the introduction of quota system.

5.2. FEDERAL CHARACTER PRINCIPLE, REPRESENTATION AND ETHNIC BALANCING

Establishing institutions may provide legitimacy to the conflict accommodation process (Kriesberg, 2007: 472). However, the historical background of particular countries and their geopolitical context influence the politics of institutional choice which can create procedures under which conflict can be managed through constructive measures rather than violence (Bastian and Luckham (2003: 5). As Odetola noted, administrative institutions in Nigeria have provided basic integrative mechanisms (1978: 191). The federal character principle which was first adopted in the 1979 and was revised under the provisions of 1999 constitution constitutes the most integrative strategy in Nigeria. It was institutionalized when Nigerian governments set up necessary agencies such as Federal Character Commission to further integrate the country and to manage conflicts by addressing historical imbalances between regions and/or states. This part of the study will question if the federal character principle is relevant to accommodate ethno-regional diversity of Nigeria and contribute to the conflict management. However, it was discussed that federal principles in theory may not always be fully implemented in

¹⁷⁶ Remember that Nigeria is estimated to have between 250 to 400 ethno-linguistic groups.

practice. This requires that in order to provide a complete understanding of the capacity of FCP in diffusing conflicts, the applicability of this principle also has to be analyzed. As will be indicated in the following paragraphs, the application of the federal character principle is still very problematic even though in theory, there seems to be an almost perfect equality between the (federal) states and individuals coming from different states.

The basic rationale of the FCP is to provide national unity and to ensure a sense of belonging among Nigerians through accommodative strategies (Suberu, 2001: 111) as well as to reduce ethnic rivalry through the introduction of such a “scientific ethnic engineering” (Kirk-Greene, 1983: 459). In this respect, like the state creation exercises, the FCP also reflects the desire of Nigerian policy-makers to allay the fears of minorities over majority domination. Through this principle, the recruitment of persons from a few states or ethnic groups and predominance of certain ethno-regional groups in the composition of public institutions could be precluded (Bello, 2012: 7). The application of FCP, therefore, helps to manage ethnic inequalities within the distribution of posts in the public sector as well in education and revenue sharing. The Federal Character Commission itself is one of the fundamental institutions applying federal character in its recruitment process. However, there are two dimensions of the federal character principle, equitability (irrespective) and equality (irreducible). The former refers to “fair and just allocation” whereas the latter connotes “mathematically exact allocation” (Kirk-Greene, 1983: 465).¹⁷⁷ In Dent’s words, “It implies a system of equal shares for each unit, both for each state at the federal level and for each local government area at the state level” (2000: 162-163).

The federal character principle seeks to assure different ethnic groups that they have equal opportunity for government posts. The following quota system and the appointment of federal officials will explain the details on the application of this principle. The decision on the creation of the Federal Character Commission in order to monitor and enforce the application of the federal character principle was taken in

¹⁷⁷ From these definitions, we can at least argue that federal character principle in the distribution of governmental posts takes into account mostly the equality principle while the revenue-sharing system, which is an extension of federal character principle or another accommodative strategy reiterating the principle, is equitable in essence.

the National Constitutional Conference which was convened in June 1994 by General Abacha (Ugoh and Ukpere, 2012: 6776). The establishment of such an institution was necessary in order to maintain that no group in Nigerian society will feel excluded, marginalized or disadvantaged from socio-economic and political life due to their lack of representation. The Commission was established by Decree No. 34 of 1996 “with responsibility to promote, monitor and enforce compliance with the principles of the proportional sharing of all bureaucratic, economic, media and political posts at all levels of government.”¹⁷⁸ That is, the FCC is entitled to preserve equality among Nigerians in addition to implement the government motto of equality among the member states of the Federation. The mandate of the Federal Character Commission also covers companies where government holds dominant shares (Ugoh and Ukpere, 2012: 6778) and private sector (Decree No. 34, 1996, Section 4, subsection 1(d-ii)).

Section 14(3) of the 1979 Nigerian Constitution, Section 15(3) of the 1989 Nigerian Constitution and Section 14(3) of the 1999 Constitution -the basis of the Federal Character Principle- ensure that the Federal government and its agencies shall conduct their affairs in the manner to reflect the federal character of Nigeria as well as to provide national unity. The state agencies which should reflect the federal character of the country in all cadres of post in the public service of the Federation and the states include the armed forces of the Federation (Sc. 217(3)), as well as the members of the executive committee or other governing bodies of political parties (Sc. 223(1: b)), the Federal Character Commission (Sc. 153(1)), the Nigeria Police Force and other government security agencies, government owned companies and parastatals of the states (Schedule 3, Section C, Part I, Para.8(a)). Through such affirmative action programs, Nigerian government aims to find a remedy to the existing cleavages within Nigerian society and bridge the imbalances between different ethnic groups of the thirty six states.¹⁷⁹

¹⁷⁸ See Federal Character Commission (Establishment) Act. (1996). No. 34. <http://www.placng.org/new/laws/F7.pdf>, (21 March 2013).

¹⁷⁹ Another particular outcome of the FCP is the creation of states having roughly equal population which makes Nigerian federalism a unique case. However, a similar search for establishing local governments of equal population has created intense debates in some states as Benue-Plateau (Dent, 2000: 163).

The Federal Character Commission together with the introduction of a quota system and revenue sharing system is the product of a reform process starting from the first military intervention (Mustapha, 2007: 8). Following the thirty-months of civil war, the Federal Character doctrine has become a guide to the allocation of jobs and resources among ethnic groups. The term “federal character” was first used by General Murtala Mohammed in 1975; however, even before the establishment of the FCC, the incumbent Nigerian government had accepted a quota system in the recruitment of persons in some posts in the army, in admissions for higher education and in Cabinet representation. Among them, the practice of the former dates back to late 1950s.¹⁸⁰ In 1967, the government reviewed this quota system albeit without a constitutionally charged body to implement the federal character. In mid-1970s, the issue of “federal character” emerged as an important political debate and in 1977, a Constitutional Draft Committee was established in order to “resolve the problems of inequality and marginalization that were expressed by many Nigerians.” As a result, federal character principle was incorporated into the 1979 and 1989 constitutions. With the insertion of the federal character principle into the 1979 Constitution, the principle started to be systematically applied to most governmental activities. However, many Nigerians who still felt marginalized disappointed as the government did not respect the FCP in the appointments and allocation of resources (Federal Character Commission and Rothchild, 1991: 196).

It is in such an environment that the need to establish an institution to implement the principle was recognized. The Constitutional Conference convened in 1995 dealt with the issue and recommended the proposals including “sharing of political powers, redressing the marginalization of disadvantaged groups and distribution of economic wealth.” In order to achieve these goals, the following proposals were added: “dividing the country into six geo-political zones, rotation of certain political offices, provision of new revenue sharing formulae and the

¹⁸⁰ In 1958, Nigerian government adopted the quota principle on the recruitment of non-officer ranks of Nigerian military. This required the allocation of 50 percent for the then Northern Region and 25 percent for the Eastern and Western regions. This quota principle was then extended to the officer corps. The concern of Nigerian leaders for preventing the armed forces from being an institution dominated solely by one group lies behind this initiative. However, with the military coup of 1966, this quota principle was virtually abandoned until 1979 when this principle was reasserted (Adamolekun, Erero and Oshionebo, 1991: 83-84).

establishment of a Federal Character Commission.”¹⁸¹ All of these four proposals were realized in the years to come. Among them, the introduction of a quota system is the basis of the federal character principle which is respected in the distribution of public posts.

5.2.1. The Introduction of a Quota System

Section 4(1)(a) of the Federal Character Commission (Establishment, Etc) Decree No. 34 1996 requires that “the indigenes of a state of the Federation shall not constitute less than 2,5 percent or more than 3 percent of the officers... at the Head office of any national institution, public enterprise or organization” (12(a), Career posts). The Decree also states that if any post is not sufficient to go round 36 states (this simply means that if there are less than 36 vacancies), “the vacancies shall be shared among the zones” but “the indigenes of a particular zone shall not constitute less than 15 percent or more than 18 percent” (12(b), Career posts).¹⁸² Additional provisions under the guiding principles and formulae of the FCC Decree No. 34 include the provision that “each state of the Federation and the Federal Capital Territory shall be equitably represented in all national constitutions and in public enterprises and organizations.” The most competent people are also recruited from each state to fill vacancies reserved for the indigenes of that state or the FCT.

If there are only two posts, the north and south shares them and if there are six posts, each zone acquires one. If the indigenes of a state cannot fill the slot reserved for them, the indigenes of other states from the same geo-political zone shall be given preference. Only if the latter also fails to fill the post(s), indigenes from other zones shall be considered for the appointment. The guiding principles of the FCC also require that “Each states shall produce 2.75 percent of the total work force in any Federal establishment while the Federal Capital Territory shall produce 1 percent for the indigenes of the Federal Capital Territory.” As Bello notes, these provisions enable all states of the Federation to have their citizens in all agencies of federal civil

¹⁸¹ Establishment of Federal Character Commission. Official Website of the FCC. http://federalcharacter.gov.ng/server_article.php/ESTABLISHMENT-OF-FEDERAL-CHARACTER-COMMISSION, (12 July 2013).

¹⁸² See Federal Character Commission. http://federalcharacter.gov.ng/server_article.php/GUIDING-PRINCIPLES

service (2012: 7). The following zoning principle on the appointment of the Nigerian president reiterates the federal character principle.

5.2.2. The Appointment of the President and the Zoning Principle

The appointment of the President also reflects the federal character of the country. Nigerian President is the Head of State and the Chief Executive of the Federation (Chapter VI, Section 130(2)). Geographical distribution requirements of the Nigerian Constitution which recognize a quota system for government posts includes the post of presidency. Section 134(4-b), for example, requires that the winning candidate in the presidential elections should have a majority of all votes but should also receive 25 percent of the votes in each of at least two-thirds of all the States.¹⁸³ As discussed in the introductory part of the fourth chapter, there is an over-concentration of powers and resources at the federal government level and Nigerian constitution recognizes enormous powers to the president. This explains why the post of presidency and membership to the National Legislative is very attractive in the eyes of the leaders from different states and why it is seen as the best means to ensure the development of their region in the eyes of ordinary people (Osieke, 2006: 23). However, due to its large territory and population, the North had an electoral advantage in presidential elections. The Northern delegates also generally “voted as a block in these elections” in order to provide “the majority required to elect the president.”¹⁸⁴ The recent discontent among different states on this structure produced a compromise. This new structuring produced a new formula of rotation where the post of president would rotate among the newly-created geo-political zones (Osieke, 2006: 24).¹⁸⁵

¹⁸³ 1979 and 1989 constitutions have the same provisions on presidential elections. See Section 125 of the 1979 Constitution (Chapter VI) and Section 131 of the 1989 Constitution (Chapter VI). See the 1979 Constitution of the Federal Republic of Nigeria at: <http://www.dawodu.com/const79.pdf> and the 1989 Constitution of the Federal Republic of Nigeria at: http://www.concourt.am/armenian/legal_resources/world_constitutions/const/nigeria/nigeri-e.htm.

¹⁸⁴ In result, from 1960 to 1988, only two heads of government were from the South while the remaining six were from the North (Suberu, 1988: 433, footnote 12).

¹⁸⁵ Some people are of the opinion that that the six zones should be turned into six regions which could then constitute the new federating units with their own jurisdictions. Other people defend the decrease in the powers of the president and in other state governors which would also reduce the attractiveness of these posts (Osieke, 2006: 24).

This rotation formula does not only involve the appointment of the President but also requires that other five major posts in the federal government, namely, the Vice-Presidency, the President of the Senate, the Senate Majority Leader, The Speakership of the Houses of Assembly and the House of Assembly Majority Leader shall be rotated among the six geopolitical zones (Dent, 2000: 164). Experts explain the electoral success of National Party of Nigeria (NNP) in the Second Republic in relation with the implementation of the zoning principle (Suberu and Diamond, 2002: 419). In the zoning scheme of NNP, the presidency of the Federation was assigned to the far (predominantly Muslim Hausa-Fulani) North, the vice-presidency was assigned to the Igbo southeast, the party chairmanship was assigned to the Yoruba southwest, the senate presidency was assigned to the South-South (southern minorities) and the office of the Speaker of the House of Representatives was assigned to the lower North or Northern minorities, -the Middle-Belt or North-central zone. If the Second Republic would not be overthrown by the military, the party would assign the presidency to the South and change the allocation of other key offices (Suberu and Diamond, 2002: 419).

In the following candidacies over presidential elections, Nigeria's political parties respected this zoning principle. Two parties of the Third Republic, the Social Democratic Party (SDP) and its rival National Republican Convention (NRC) also adopted the zoning principle.¹⁸⁶ For example, the former zoned its presidential nomination to the southwest and vice presidential candidacy to the northeast while the latter assigned presidency to the Muslim far North and vice-presidency to the former Eastern Region (referring South-South and South-East zones). In the presidential elections of 1999, the presidential candidates of both parties, People's Democratic Party (PDP) and All People's Party/ Alliance for Democracy (APP/AD) Alliance were both Yoruba from the south-west. However, the parties selected their candidates for other posts from different zones. Following its electoral victory of Obasanjo's PDP, the party distributed the afore-mentioned key posts among the remaining four zones (The party did not zone any post to the North-Central but two posts to the South-South). However, the PDP was criticized for not applying the

¹⁸⁶ Between 1989 and 1993, the country had only two parties which represented the center-right (NRC) and the center-left (SDP). However, with the end of this era, this two-party structure was abandoned.

informal principle of equitably sharing strategic ministries among geopolitical zones while following the constitutional requirement to appoint at least one minister from each state (Suberu and Diamond, 2002: 419-421).

The application of zoning and rotation principles leads one to question if the best strategy is to develop a geographical distribution requirement and the introduction of a zoning system for the appointment of high executives especially the presidency in order satisfy inter-group demands. The very problem with the office of Nigerian presidency is the appealing character of it due to the enormous powers of Nigerian president.¹⁸⁷ That is, Nigerian policy-makers should seek to appease the concerns of ethnic leaders that appointment to such senior posts would be the easiest way to access state resources. Suberu and Diamond also notes that this rotation principle contradicts with the very objective of projecting the presidency as a unifying symbol among Nigerians (2002: 413). However, Nigerian leaders continue to apply the zoning principle in the major posts of the federal government.

Under the current structure of the federal government, the President Goodluck Jonathan is from South-South zone, while Vice President, Mohammed Namadi Sambo is from the North-West. The Senate President, David Mark, is from North-Central zone and Secretary to the Government of the Federation, Anyim Pius Anyim is from South-East zone. One of the Senate majority leaders is from North-East while the other is from South-South. Senate minority leader is from North-West whereas the Speaker of the House of Assembly is from South-East and Honorable Speaker is from North-West. One of the leaders from the House of Representatives is from South-South zone while the other is from the South-West. Minority leaders at the House of Representatives are from South-East, North-West and South-West zones.¹⁸⁸ As is seen, major posts in the federal government including the Presidency, Vice-Presidency and the Presidency of the Senate indeed reflect the zonal rotation and the federal character principle. Nigerian political parties also have to respect the federal character principle in the conduct of their affairs and in appointing their members.

¹⁸⁷ The fact that Nigerian president can be re-elected in a second term increases the attractiveness of the post. Section 137(1) requires that "A person shall not be qualified for election to the office of President if ... he has been elected to such office at any two previous elections."

¹⁸⁸ Data collected from the Official Webpage of the Federal Republic of Nigeria; <http://www.nigeria.gov.ng/> and from the Webpage of Nigerian National Assembly <http://www.nass.gov.ng/>

5.2.3. The Establishment Political Parties

In order to further cut across ethnic differences, some regulations have been made in the Nigerian 1999 Constitution on the establishment of Nigerian political parties. For example, section 222(e) of the constitution states that: “the name of the association, its symbol or logo does not contain any ethnic or religious connotation or give the appearance that the activities of the association are confined to a part only of the geographical area of Nigeria.” Section 222(b) further ensures that: the membership is open to every Nigerian citizen “irrespective of his place of origin, circumstance of birth, sex, religion or ethnic grouping.” Section(1/b) also requires that the executive committee and other governing body of the political party should reflect the federal character of the country whereas Section 223(2/b) provides that both the executive committee and other governing body of the party should be comprised of members from different states -at least from two-thirds of all the states of the Federation and the Federal Capital Territory. The establishment of political parties in ethnic or religious lines is banned under the Nigerian constitution which simply means that Nigerian parties have to be nationwide in their appeal.

In the establishment of Alliance for Democracy in 1998, the requirements for registration as a political party were not met given that the party “did not have substantial presence outside Yorubaland.” Nevertheless, the Party was registered by the military regime by the belief that the party would lose elections. However, the AD surprised all observers by winning all elections in all states in the South-West in 1999 presidential elections (Ukiwo, 2003: 122). There are now sixty-three registered political parties in Nigeria, each has to reflect the federal character principle and has to open its membership to all Nigerians.

The Constitution of the Peoples Democratic Party, President Goodluck Jonathan’s Party, has various provisions which reflect the federal character. Section 13.2 of the Constitution of the PDP, for example, requires that “there shall be a Deputy National Chairman who shall come from either North or South, other than the zone of the National Chairman.” Section 12,67(h) of the Constitution indicated that the National Caucus is composed of “the Chairman and Secretary of the Board of Trustees and one member drawn from each of the six geo-political zones” in addition to other members. Section 12.71(t) also stipulates that the National

Executive Committee of the Party shall include “four other ex-officio members of the party, at least two of whom shall be women elected from each of the six geopolitical zones.” Section 12.75 states that “the quorum of the National Executive committee shall be two-third of the membership drawn from at least two-third of the zones in the federation.” Section 12.76(1) also requires that the Board of Trustees shall be composed of “two women selected from each of the six geo-political zones” and “three members at least one of whom shall be a woman from each of the six geopolitical zones” in addition to other members.¹⁸⁹

5.2.4. The Appointment of High-Officials and the Composition of Other Governing Bodies

Section 147(3) of the current constitution stipulates that the president must appoint at least one minister from each state whereas Section 171(1) empowers Nigerian president to appoint 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 in any Ministry or Head of any Extra-Ministerial Department of the Government of the Federation and any office on the personal staff of the President. Section 171(5) requires that the President “shall have regard to the federal character of Nigeria and the need to promote national unity.” Section 217(3) of the Nigerian Constitution stipulates that the composition of the armed forces should reflect the federal character of the country. Section 219(b) also specified that a body was established in order to “ensure that the composition of the armed forces of the Federation shall reflect the federal character of Nigeria.”

However, a recent newspaper article reported that President Goodluck Jonathan violated federal character principle and the constitution when he recently replaced all the service chiefs excluding the ones in the armed forces. This report was published in *Saturday Tribune*, a newspaper based in Ibadan, in South-West Nigeria, and noted that the appointments increased the fear of marginalization of the South-West among six geopolitical zones given that no appointment was made from this

¹⁸⁹ See the Constitution of the Peoples Democratic Party (PDP) at: <http://www.peoplesdemocraticparty.net/attachments/article/7/PDP%20constitution.pdf>

zone while two of the six zones had two places and the Northern zones were fully represented. As a result of the new appointments, the South-West had no representation at the top echelon of the security structure. The report also noted that in the earlier ministerial appointments, some states and zones enjoyed more slots or were granted the posts in more important ministries including the ministries of Defense, Works and Housing, Interior, Power, Steel and Finance (Oderemi, 2012). This may increase the concerns of southern states who believe that Nigeria State Force was not impartial but instead, favored some groups over others. The concerns of these states over the issue explain why they often called for the establishment of state police (Ukiwo, 2003: 130).¹⁹⁰

Other federal executive bodies also have the obligation to reflect the federal character of the country such as the Federal Character Commission¹⁹¹, National Population Commission,¹⁹² Nigeria Police Council,¹⁹³ Revenue Mobilisation Allocation and Fiscal Commission¹⁹⁴ and Independent National Electoral Commission.¹⁹⁵ The 1999 Constitution stipulates that these bodies ought to comprise one person from each state. As population census is still a controversial issue in Nigerian politics, the clause on Nigerian Population Commission is especially important in diminishing the concerns of some ethno-regional groups regarding the census results. Council of State which has the power to advise the president in the exercise of his powers in many areas¹⁹⁶ and National Economic Council which is also authorized to advise the president on economic affairs of the Federation, also have

¹⁹⁰ The controversy over state police divides Nigerian politicians. The Northern governors expressed their opposition to the establishment of state police through their Chairman, Muazu Babangida Aliyu (Governor of Niger state in North-Central zone). However, the Chairman of the Nigerian Governor's Forum, Rotimi Amaechi (Governor of Rivers state in South-South zone) stated the governors agreed on the need for state police as in the federal countries of USA, India and Australia in order to provide improved security given that state police would have a better knowledge of local people. However, Nigerian constitution stipulates that police affairs are in the responsibility of the federal government and if the states want to take responsibility of their own policing, this requires constitutional change (Liman, 09 August 2012).

¹⁹¹ Third Schedule, Part 1, Item 7.

¹⁹² Third Schedule, Part 1, Item. 23

¹⁹³ Third Schedule, Part 1, Item 27.

¹⁹⁴ Third Schedule, Part 1, Item 31.

¹⁹⁵ Third Schedule, Part 1, Item 14.

¹⁹⁶ Third Schedule, Part 1, Item 6.

similar quoting systems and shall comprise the governor of each state of the Nigerian federation.¹⁹⁷

The Federal Character Commission also has to reflect the federal character of the country. In the FCC, each state and the Federal Capital Territory is represented by one person (commissioner) (Third Schedule, Part 1, 7(1)). If the chairman of the Commission is from a northern state, then the secretary must come from a state in any of the southern zones or vice versa (Mustapha, 2007: 12). The Federal Character Commission receives the complaints of some discontent groups from certain appointments. The Commission also monitors, investigates and analyzes if appointments in the federal, state, local and zonal levels truly reflect the federal character principle. In order to implement this function, it systematically collects data on the composition of bureaucracies. Mustapha informs us that the FCC once warned the president about some unfair political appointments (2007: 13, 15).

Recently, on late June 2013, Nigerian senators claimed that the President Goodluck Jonathan did not respect the federal character principle in his appointments to the Central Bank of Nigeria, Economic and Financial Crimes Commission and the Judicial Service Commission. Senators were divided especially on the appointment of four non-executive members of the board of the first institution, Muhammad Musa Kafarati (North-East), Collons Chike Chikeluba (South-East), Adaba Anthony Adeiza (North-Central) and Ayuli Jemide (South-South). The names were soon confirmed, although senators insisted that the federal character principle must be followed in all appointments (Folasade-Koyi, 28 June 2013).¹⁹⁸ It is another argument that only one person from the Southern Nigeria was appointed as the

¹⁹⁷ Third Schedule, Part 1, Items 5 and 18.

¹⁹⁸ Another criticism is on the allocation of seats in the House of Representatives and the fact that different zones have different numbers of members (Adebayo, 29 October 2012). However, the defining criteria, here, is the population of states which determines the allocation of seats in the House of Representatives. The states having least members (such as Bayelsa, Ebonyi, Ekiti, Gombe, Nasarawa, Taraba and Zamfara), are also among the least-populated states of Nigeria. For example, Bayelsa has 1,7 million of population while Zamfara has 3,2 million and Nasarawa has 1,8 million. In result, Bayelsa and Nasarawa are the states having the least seats (5) in the House of Representatives while Zamfara has 7 seats. Ebonyi, Ekiti, Gombe and Taraba have nearly equal populations and thus, they all have 6 members in the House of Representatives. The most-populous Nigerian states are Katsina, Ogun, Oyo, Kaduna, Imo, Kano and Lagos and these states have the greatest number of representatives. Ogun and Katsina have 15 seats, Kaduna and Oyo have 16 seats, Imo has 17 seats and Lagos and Kano both have 24 seats (For the 360 members of the House of Assembly and the states that they are from, see: "Members", The House of Representatives at: http://www.nassnig.org/nass2/Princ_officers_all.php?title_sur=Hon, (04 August 2013)).

Minister of the Federal Capital Territory since the creation of the FCT as if this post is assigned to Northerners (Daily Independent, 21 June 2013). The fact that critiques against the federal character principle are many simply means that the application of the principle is still very problematic in nature. The following section will focus on the major critiques on the application of the FCP and the FCC which monitors its application.

5.2.5. Critiques against the Application of Federal Character Principle

The federal character principle was established in order to provide a fair and equitable distribution of government posts, however, it “is not without its dilemmas” (Rothchild, 1991: 196). It is argued that although the purpose behind the adoption of federal character principle is “laudable”, its operation further divided the country (Bello, 2012: 1). The Federal Character Commission, which is subject to criticism, thus, calls for the increase in its competency in order to cancel any recruitment exercise and order a new one if the federal character principle was not respected. The Commission also campaign to carry out recruitments itself in case of a repeated faulty recruitment and to initiate legal actions without appealing to the office of the Attorney-General (Ugoh and Ukpere, 2012: 6776-6777).

Oyovbaire notes that in the early years of its implementation or more specifically, between 1979 and 1982, the use of federal character was defined to be discriminatory and tribal (1983: 19). Together with Oyovbaire, many other experts also points out the inclination to mediocrity in public institutions (Bello, 2012: 12; Ezeibe, 2010). The dilemma between merit and representativeness deserves closer scrutiny. At the core of critiques against the federal character principle is the argument that it sacrifices merit for the sake of representation. The principle does not ensure that each time the most-qualified candidate is selected but instead, mediocre people are employed by using their state quota.¹⁹⁹ Experts as well as ordinary

¹⁹⁹ Kirk-Greene evaluates the appointment of ministries as case under the nineteen-state structure in order to explain how distribution principle works at the expense of the merit principle. As he notes, the equality principle requires that if there are nineteen federal permanent secretaryships available, the second most qualified candidate would be in No. 20 in the queue and thus, would not be appointed given that he comes from the same state as the No. 1 candidate. It is also possible that the second appointment may go to the 100th most deserving candidate because he is the only indigene from a particular state (1983: 466).

Nigerians argue that more skilled and educated people are disadvantaged when this principle is taken as essential in the acceptance to public posts or schools. These well-qualified people would fill the vacancies if competitive examinations would be done. However, instead of considering technical qualifications or knowledge, the criterion of appointments is based on the principle of representation. Federal character principle is also employed in the promotions. There are examples of capable and long-serving federal civil servants who are not promoted if their state quota in these posts has been filled (Bello, 2012: 7).

The employment of relatively unqualified people in public posts is assumed to cause the underdevelopment of Nigeria in socio-economic terms while the principle does ignore the social and economic development of the country. For example, rather than feasibility, non-economic criterion is taken into account in determining the location of steel industry. Under these circumstances, it is not easy to provide equality and justice for all Nigerians given that group rights are not in harmony with individual rights (Rothchild, 1991: 196). The educational imbalance between some states led to “educationally disadvantaged” states or regions such as the states in the Northern zones.²⁰⁰ This explains how Southerners who had earlier access to Western education historically dominated Nigerian public service. In order to remove this imbalance led by educational gap between regions and correct Southern domination on federal bureaucracy, upper posts in the Nigerian public sector were opened to Northern zones through the federal character principle. However, this has generated the disapproval of Southerners believing that Northerners were unfairly given the opportunity to occupy important positions at the expense of more-skilled Southerners (Ibrahim, 1994: 22; Mustapha, 2007: 6; Suberu, 1988: 431-432).

The federal character principle is also assumed to neglect the very issues of ethnicity and religion, two important sources of Nigerian conflicts while favoring major tribes and working against ethnic minorities.²⁰¹ When selecting three directors

²⁰⁰ After the state creation of 1967, it was realized that there were only a few educationally disadvantaged states in the South. More clearly, until 1989, all of the (eleven) states in the North and only two states from the South were declared educationally disadvantaged and thus, were granted some “preferential treatment” in the admissions to secondary and tertiary schools (Adamolekun, Erero and Oshionebo, 1991: 78).

²⁰¹ However, (federal) states are the only units allowing the determination for representation given that the questions on ethnic and religious affiliations are excluded from Nigerian censuses following the 1991 census (Adamolekun, Erero and Oshionebo, 1991: 80).

from North-East, North-West and North-Central zones, it is possible to select, for example, three Hausa/Fulani directors from each of these zones (Mustapha, 2007: 11). Federal character is thus defined as a system that further disadvantages the already marginalized groups while favoring a small groups of élites and exacerbates inter-group rivalries (Rothchild, 1991: 196). It is also assumed to strengthen loyalty to ethnic identities and hence, further divide the country rather than emphasizing the nation which makes the FCC to be defined as the “Achilles Heel of Nigerian politics” (Bello, 2012: 10-11).

Federal character principle does not take into account the relative population of the states or the different number of eligible candidates for the appointments to public posts (Bello, 2012: 11; Mustapha, 2007: 11-12). In that vein, “there is no greater inequality than the equal treatment of unequals” (Bello, 2012: 11). Observers criticize the arithmetic formula of the FCC and argue that instead of equal representation of all states, another formula should be tried given that every state does not have the same population. This explains why less-populated states are more advantaged with the application of federal character principle requiring equal representation of all states. Experts, therefore, call for a review in the arithmetic formula and point out the need to address socio-economic equalities between Nigerian states and zones not just a mere sharing of educational and bureaucratic facilities (Mustapha, 2007).

The application of federal character principle becomes more problematic when combined with the controversial issue of citizenship. As noted before, Nigerian citizenship is based on the indigeneity clause which is specified in the subsequent 1979, 1989 and 1999 constitutions.²⁰² According to the definition of Nigerian citizenship, people living outside their state of origin may be labeled as “non-indigenes” (Ojo, 2009: 389). It is clear that as a result of this definition, people living outside their place of birth are disadvantaged when being assigned to posts in Nigerian public service given that Nigerian citizenship clause is the basis of the implementation of the federal character principle. Although a person pays his taxes in the state he lives or works, he does not have the same rights that the indigenes of that state have. It means that settlers can use the quota of their state of origin in the

²⁰² Remember footnote 149 in the previous chapter.

assignment to jobs in government institutions or in the admission to public schools and universities not the quota of the state where they reside.²⁰³ As Mustapha notes, Nigerian women married to Nigerians from the states apart from their state of origin are also denied representation in the states where they live and work (2007: 19). The children whose mothers are non-indigenes are also discriminated on issues including educational opportunities or access to health care. In such an environment, these people are forced to return to their state of origin in order to possess land or educate their children (Ibrahim, 1994: 22). As a result of the discriminatory policies against “non-indigenes”, many experts call for a revision in the Constitution and a redefinition of Nigerian citizenship (Azikiwe, 1965: 456) which militates against national unity (Ayua, 2005: 31).

Nigerian newspapers include various evaluations and critiques of this structural design and its outcomes. One of these reports enumerates “the sins of the federal character principle” as giving the opportunity to the people to work in public institutions even they are not qualified to attain such posts or providing the chance for academically non-qualified people to gain admissions to public schools when more-qualified candidates are denied admission because of the state they are from. It is thus concluded that such outcomes of the federal character principle produce corruption among public officials, inefficiency in service delivery while leading poor-quality graduates and disunity among Nigerians (Udchukwu, 12 June 2013).

Despite all these critiques, experts accept that the federal character principle have contributed in easing inter-ethnic tensions in various ways. Among the most prominent of them is that the FCP may preclude the occupation of a greater share of jobs by advanced groups in the government posts, a fact which would increase the

²⁰³ The application of the FCP in the admissions processes of the Federal Government Colleges is also criticized for ignoring merit principle in exchange for representation. The former Head of Department of Foreign Languages at the Obafemi Awolowo University, Remi Sonaij, evaluates the application of federal character principle as unfair since pupils from different states can apply to the same colleges with very different scores. For example, a student from Anambra state (South-East zone) need to score 139 (over 200 marks) in order to qualify for admission whereas pupils from Kebbi, Sokoto (North-West zone), Taraba, Yobe (North-East zone) and Zamfara (North-West zone) can apply with the following scores of 9, 9, 3, 2, and 4. Like many experts, she therefore, criticizes the federal character principle for focusing solely on equal ethnic group representation while more qualified people could contribute better to national development. By defining the FCP as only having “the appearance of fairness”, she repeats the demands of some more-educated and more-skilled Nigerians that people need to “qualify” in order to gain admission into educational institutions (The Guardian, 27 June 2013). From this perspective, it can be easily argued that the federal character principle actually works against the principle of equality in competition.

discontent of other disadvantaged groups (Dent, 2000: 163). It is also pointed out that although this principle increased citizenship problems in the country, it “has shared power more broadly and more inclusively than before” (Bolaji, 2009: 122). The Federal Character Commission created “new norms and procedure for the non-violent resolution of conflicts” and changed the culture of bureaucratic recruitment. Before its adoption and more importantly its application, ethnic politics dominated the distribution of posts while senior officials filled the posts from the people of their origin. In such an environment, the holding of political offices was seen as battle fields among Nigeria’s ethnic groups. However, these people now have to respect the diversity of the country and the federal character principle. Moreover, complaints of certain groups or people were investigated and evaluated by the FCC, which is an independent body established to address the complaints of either individuals or communities. The data collected by the FCC is also an important source to adequately assess the representation problem (Bello, 2012: 2; Mustapha, 2007: 21-22).

According to FCC rules, job advertisements must be published in two daily newspapers. One of these newspapers should be widely read in the south and the other in the north. It is also required that applicants shall be given at least six weeks to apply for the vacancies in order to ensure wide applications from each part of the country and to provide that each person has an equal chance to attain the post (Mustapha, 2007: 13). Federal Character Commission monitors the activities of the newspapers on recruitment issues while the list of political appointments are often sent to the FCC in order to provide that the institution will monitor and analyze if appointees reflect the federal character principle. If the FCC decides or suspects that recruitments do not respect this principle, it then initiates (Ugoh and Ukpere, 2012: 6777) and ask for a new recruitment. These are among the many positive aspects of the federal character principle and its implementer institution, the Federal Character Commission.

More importantly, the application of the federal character principle presents a very interesting example on how federal principles of equal representation can be applied in different circumstances. It also provides us a good example that federal principles in theory can be applied in practice. In federal countries, the equal or fair

representation of federating units in executive or legislative branches of the government is common. Not only federal states but also unitary states may adopt diverging formulae to provide representation for the ethnic, regional, religious, racial, or cultural groups within their societies in this respect. However, Nigerian case is unique in the sense that it provides further representation opportunities for the ethno-regional groups ranging from admission to universities to the election of the president. As noted by Rothchild, “certainly, no African country has been as systematic about applying corrective equity principles as Nigeria” (1991: 196). Although Federal Character Commission could not be fully effective in fulfilling its objectives, both the federal character principle and the Commission should be seen as processes whose potential will be better observed in the mid-term or long-term (Ugoh and Ukpere, 2012: 6779).

The idea of representational equality between states is a well-intended attempt which is also an effective conflict management device designed to satisfy the demands of various ethno-regional groups on equal representation. However, from the above-writings, it is clear that Nigerian policy makers should revise the federal character principle and find a balance in the dilemma between merit and representativeness. Ezeibe argues that rising mediocrity in national life should be prevented by designing another formula which may include removing the strict formulation of state equality in government posts and focusing more on the merit principle. The author favors another formula which considers at least 70 % of merit for “appointment, admission, sitting industries and state creation” (2010: 79) by not “pushing too far the irreducibility principle” (Bello, 2012: 12). Another argument points out the fact that it is more important to increase the level of education in all zones rather than strictly applying representativeness formulae. This would ensure that each Nigerian citizen compete for positions on the basis of merit principle (Adamolekun, Erero and Oshionebo, 1991: 88).

From the above-discussions, it is clear that similar to the state creation exercises, the application of the federal character principle, another fundamental strategy of conflict management in Nigeria, is also problematic in nature. However, although the federal character principle is not fully implemented in Nigerian socio-economic and political milieu, it has provided important opportunities for Nigeria’s

ethno-regional and ethno-religious groups especially on matters of equal representation. It also contributed to the management of Nigeria's several conflicts which divided the country even during the pre-independence years and from the inception of its federal system despite having many shortcomings. On the other hand, Nigerian politicians try to bridge the socio-economic gaps among the various ethno-regional groups by adopting other measures. The following part will analyze the last (federal) measure adopted by Nigerian government for accommodating diversity and regulating conflicts amongst with other things.

5.3. NIGERIAN REVEUE ALLOCATION FORMULA AND DERIVATION PRINCIPLE

Nigerian conflict management measures of increasing state numbers and local governments, federal character principle and zoning quota system may enhance good governance. However, as Spears points out, they can be more successful if they are supplemented by other measures as encouraging even economic development within regions. These measures may diminish the importance of holding state power or resources (2000: 116) be they national or regional, and mitigate the conflicts arising from this desire. Moreover, granting of a sufficient degree of financial autonomy to different levels in any federal system is important in order to talk about true federalism. If the regions are largely dependent on resources transferred from the central government, as in the case of both South Africa and Nigeria, it simply means that the practice of federalism is problematic in nature.

Like many federal systems of government, Nigerian government also has a revenue allocation system which determines the rules for the federal government on how to share the national revenues with state and local levels. However, revenue distribution system is a contentious issue given that Nigerian states are in a competition over sharing this revenue largely extracted from oil export.²⁰⁴ As discussed, there are only a few-oil producing states within the country and oil is mostly drilled from the poorly-developed Niger Delta region. Therefore, the major responsibility of Nigerian governments have been to develop a revenue distribution

²⁰⁴ The excessive oil revenue of the Nigerian government explains the concentration of resources at the central government and the amount of revenue distributed to the federal states (Dent, 2000: 166).

system in order to equally or fairly allocate national revenues to its thirty-six states and six zones. The following section will evaluate how Nigerian current revenue allocation system evolved in different phases.

5.3.1. The Evolution of Nigerian Revenue Allocation System

Under the three region structure, regions had more control over their natural resources while both the 1960 Independence Constitution and the 1963 Republican Constitution granted more fiscal autonomy to the regions. As contrast to the current situation, these regions were not totally dependent on the revenues transferred from the centre. In the first republic, regions had control of agricultural products produced in their own territory and received 50 percent derivation from the amount accrued to the federation (Ebegbulem, 2011: 218-221).²⁰⁵ The extensive provisions under Chapter IX (Finance), Part 2, Sections 130-139 of the 1960 Nigerian Constitution are on revenue allocation. Section 134(1) of the 1960 constitution which is on mining royalties and rents requires that each region will receive a sum of fifty percent of “the proceeds of any royalty received by the Federation in respect of any minerals extracted in that Region; and any mining rents derived by the Federation during that year from within that Region.” Section 134(2) of the Constitution also stipulates that “the Federation shall credit to the Distributable Pool Account a sum equal to thirty per cent (a) the proceeds of any royalty received by the Federation in respect of minerals extracted in any Region; and (b) any mining rents derived by the Federation from within any Region.” Importantly, Section 134(6) of the Constitution accepted the continental shelf of a region as part of that region.²⁰⁶ Chapter IX (Finance), Part 2, Sections, 136-145 of the 1963 are also on allocation of national revenue. Section 140 has the same provisions with the Section 134 of the 1963 Nigerian Constitution.²⁰⁷ However, with the military coup of 1966, the country did not only politically centralize but the regions also became highly dependent on the center.

²⁰⁵ According to the principle of derivation, a certain percentage of national revenues is allocated to the state where natural resources are found and exploited while the rest of the revenue will be enjoyed by the remaining units (Chijioke, Innocent and Jeffry, 2012: 89).

²⁰⁶ See the 1960 Constitution of the Federation of Nigeria at: http://www.worldstatesmen.org/nigeria_const1960.pdf

²⁰⁷ See Chapter IX (Finance) of the 1963 Constitution of the Federal Republic of Nigeria at: <http://eienigeria.org/sites/default/files/files/TheRepublicanConstitutionOf1963.pdf>

Starting from this period, regions lost much of their autonomy and became dependent on the revenues transferred from the Federation Account. Both the 1979 Constitution (Chapter VI, Part 1(c) - Public Revenue) and the 1999 Constitution excluded the fifty percent derivation principle which was replaced with narrower provisions on revenue allocation and reduced it to a thirteen percent of derivation principle.²⁰⁸ The rights of the regions (now states) on acquiring the revenues of minerals derived from the continental shelves contiguous to their borders were also excluded. Nigerian federal government also gained the ownership and total control of mineral resources. Chapter 1, 1(1) of Nigerian Minerals and Mining Act (2007) states that: “The entire property in and control of all Mineral Resources in, under or upon any land in Nigeria, its contiguous continental shelf and all rivers, streams and waters or constituency and the exclusive Economic Zone is and shall be vested in the Government of the Federation.”²⁰⁹

The military rule coincides with the prominence of oil revenues over agricultural products. Oil reserves were found in the states which were controlled by minorities (Ebegbulem, 2011: 222); however, new revenue-allocation formulas adopted after the civil war undermined the interests of these groups. Gowon Administration (1966-1975) and the Murtala Mohammed-Obasanjo Government (1975-1979) de-emphasized derivation principle and replaced the revenue distribution system of regional derivation with a new revenue allocation principle based on distribution of revenues on the basis of “population and inter-state equality.”²¹⁰ The erosion in the derivation principle is not only related with the centralizing tendencies of the following military governments but is also connected to the limited political power of minority states when compared to the three major ethnic communities (Burgess, 2012: 15). This emphasis on equality among federating units has resulted in an unequal circumstance for the oil-producing states

²⁰⁸ Sections 149-155 of the 1979 Constitution; Sections 160-166 of the 1989 Constitution and Sections 162-167 of the 1999 Constitution have provisions on public revenue. Chapter VI (Part 1(c) – Public Revenue) of the 1989 Constitution does not have any provisions on the derivation principle.

²⁰⁹ See Nigerian Minerals and Mining Act, 2007 at: <http://www.eisourcebook.org/cms/Nigeria%20Minerals%20&%20Mining%20Act%202007.pdf>

²¹⁰ Between 1966 and 1979, revenue allocation systems were changed four times. Until 1982, the revenue allocation proportions ranged annually between 18 percent and 44 percent. The higher limits of this range were experienced between 1954 and 1966 whereas the lower limits were obtained during the 1970s. This simply means that the percentage share of the regions or states has gradually declined (Phillips, 1991: 105)

which were denied the same derivation opportunity recognized to the regions in the fifties and sixties. Moreover, fifty percent derivation for off-shore and on-shore mining rents and royalties (1969) were reduced to twenty percent on-shore mining rents while royalties were allocated on a derivation basis (1979) (Quaker-Dokubo, 2000: 74-75). Nigerian case, here, shows how majorities have determined the rules of sharing national revenues derived from the territories of the oil-rich minorities.

Nigerian resource allocation formula and adoption of another constitutional formula has been constantly reviewed by the federal legislature. In 1989, a permanent commission for revenue allocation, namely, the Commission for Revenue Mobilization and Allocation has been established with the aim to “monitor the accruals to and disbursement of revenue from the Federal Account and reviewing, from time to time, the revenue allocation formulae to ensure conformity with changing realities.”²¹¹ The fact that the Commission can only offer advice to the governmental bodies without any enforcing power increases the debate on the establishment of another institution or a review on the Commission’s competencies. However, until its establishment, Nigerian governments set up ad hoc committees every five years which prepared reports in many areas including revenue transfers across state units. Between 1946 and 1979, eight commissions were established. Nevertheless, from the rejection of Dina report in 1968, no commission was established for nearly eleven years until the establishment of Aboyade Commission (1977). It was not until 1989 that the federal government established this permanent commission to advise government continuously on matters of fiscal federalism. The establishment of such a permanent commission had been advocated since the early years of Nigerian federalism (Dent, 2000: 166; Olowu, 1991: 161-162; Phillips, 1991: 103-104).

Nigerian 1999 Constitution specified a revenue allocation system among the member states. Chapter VII Section 162(1) ensures that the Federation shall maintain the Federation Account into which all revenues collected by the Government except some of the proceeds from the personal income tax collected from some government personnel. The major principle of Nigeria’s revenue allocation system and its conflict

²¹¹ See Revenue Mobilization, Allocation and Fiscal Commission Act, 1989. No. 49. <http://www.placng.org/lawsofnigeria/node/422>

management capacity is related with the Section 162(2) of the Constitution which maintains that in determining the formula to allocate federal revenues to (federal) states, the National Assembly shall take into account the principles of “population, equality of States, internal revenue generation, land mass, terrain as well as population density.” The principle of derivation also ensures that federating units should receive at least thirteen percent of the revenue that they transfer to the Federation Account (Section 162(3)). In other words, the derivation principle requires that the states from whose territory national resources are extracted should receive a minimum of thirteen percent of that revenue. Although the principle of derivation was de-emphasized for nearly thirteen years and the proportion of derivation of Nigerian regions/states fell over the years, it is important to note that the 1999 initiative actually increased it. The new revenue allocation system also sought to provide a sense among all Nigerian ethnic groups that they were equally funded no matter if they hold natural resources within their land. The resource-poor states, therefore, would not be in a disadvantaged or marginalized position when receiving their share of revenues from the Federation Account.

From the re-adoption of derivation principle until 1992, states could receive only 1,5 percent of derivation from the revenues that they transferred to the Federal Account. Until 1999, it was 3 percent. In this period, state representatives insistently demanded more derivation and a new revenue allocation system (Ikelegbe, 2001: 453-454). This principle of 13 percent derivation, therefore, is praised by its adherents for providing a fair share of national revenues and by precluding a likely hegemony of oil-rich states over the rest of population. According to this perspective, centrally collected revenues are shared on a basis without favoring the resource-rich states and considering different principles as population density and state equality. In this way, equal opportunities were granted to Nigerian states for their economic development. The increase in the derivation from three percent to thirteen percent was also a response of the Nigerian government to the increasing minority conflicts in the Niger Delta region. However, it was already discussed that oil-producing Niger Delta states are among the poorest of Nigerian states. The representatives of Niger Delta states, therefore, call for a satisfactory revenue allocation in order to provide even development and ask for a return to fifty percent derivation principle

applied in the three and four regions period. Moreover, there is a recent debate on the Nigeria's Petroleum Industry Bill which assumes a further allocation of 10 percent of funds to oil-producing states. Not surprisingly, Northern senators oppose the proposal while Southerners, especially the states from the South-South zone are in favor of it.²¹² The Bill awaits approval of the National Assembly, however, the debate that it created still continues.

In an article in *Daily Independent*, a newspaper published in Lagos, in South-West zone, this issue is analyzed from different points of view. It is indicated that Northern senators asked how South-South states used their thirteen percent of derivation since 1999 while criticizing their demand for an extra 10 percent "host communities" fund. However, the article notes that although Northern states do not have crude oil in their territory, they earn more than South-South states because they have more states and local government areas. It is also noted that the Northern region also enjoyed fifty percent of derivation in the fifties and sixties. Another argument put forward in the article is that without the application of the principle of derivation, Southern zones would be very disadvantaged from the revenue-sharing system. The article points out different numbers of local governments each state have and notes that if there was no thirteen percent derivation for the oil producing states as Bayelsa which has only eight LGAs; Kano State, having forty four LGAs, would receive six times the allocation to Bayelsa State in one month "without contributing anything to the federation account" (Daily Independent, 21 June 2013). There are many other critiques against Nigerian revenue allocation system which requires it to be evaluated in detail within a separate section. Here, suffice it to say that the current revenue distribution system together with its derivation principle could be an important conflict management tool for Nigerian government if it was properly used. On the other hand, management of Niger Delta minority conflicts over growing socio-economic and ecological deprivations requires a more comprehensive process.

²¹² Northern elites evaluated each attempt of South-South zone for resource control as a "recipe for disintegration" because they believed that only oil-producing states would benefit from further resource control (Ebegbulem, 2011: 223, 227).

5.3.2. Critiques against the Revenue Allocation System

Nigerian states agitate for more control over the exploration of natural resources, if not total control, extracted from their land and ownership of the mineral sources. Adeyeri notes that demands over more resource control and revenue allocation has now reached its peak after years of discontent (2012: 100). This challenges Nigerian “centralized distributive federalism” with the protesting of communities in the desire to attain “regional justice” (Burgess, 2012: 15; Ebegbulem, 2011: 218). As a result of the enormous powers of Nigerian government over the control of mineral resources, Nigerian states having important mineral reserves also demand to regain their rights that they had before. The Niger Delta communities argue that mineral land rents should belong to the communities or states from these natural resources are derived and a significant proportion of federally collected mineral revenues should be given to Niger Delta states. More importantly, these communities advocate the need for appropriate arrangements in order to compensate their “developmental and ecological problems associated with mineral exploration and exploitation” (Quaker-Dokubo, 2000: 77). Moreover, the principle of 13 percent derivation were not used when the oil-producing states in the Niger Delta suffered deprivation and thus, were denied to enjoy advantages accruing from oil derived from their land (Chijioko, Innocent and Jeffry, 2012: 79).

David Edevbie, Commissioner for Finance and Economic Planning, Delta State of Nigeria (South-South zone) criticize the marginalization and underdevelopment of the region despite its huge contribution to the Nigerian economy. Like many Southerners, he also claims that 50 percent derivation was more equitable for the oil-producing states of the Niger Delta rather than 13 percent.²¹³ The same call for 50 percent derivation “in order to address the level of degradation caused by oil exploration in the Niger Delta region” was made in a meeting of the governors of Delta, Edo and Akwa-Ibom states. The governors expressed their concerns from the existing revenue allocation system while stating that each zone should be allowed to develop at their own pace and the revenue

²¹³ See Edevbie, D. (n.d.) The Politics of 13 Percent Derivation Principle. http://www.waado.org/environment/fedgovt_nigerdelta/RevenueAllocation/13PercentAllocation.htm, (27 July 2013).

sources of the country should be diversified in order to remove the dependence on oil revenue (Azuakola, 11 September 2012). In such an environment, oil-producing Niger Delta states should be given power to control and utilize a significant proportion of oil revenues extracted from their land through decentralization in the control of resources (Quaker-Dokubo, 2000: 80). These states suffering from all kinds of environmental degradation also should be granted opportunities to handle their developmental problems (Ekpo, 2004: 32). Nigerian derivation principle should be extended to include other natural resources like minerals or agricultural resources (Ebegbulem, 2011: 228) so that each Nigerian state would benefit from the derivation principle. On the other hand, there are also many experts who define the derivation principle as a “magic wand” which managed many of the problems of Nigerian fiscal federalism until it was abolished. They, therefore, call for a review on Nigerian revenue allocation system and enshrine derivation principle to at least 25 percent (Chijioke, Innocent and Jeffry, 2012: 89).

Nigerian government should find a balance between the principle of equivalence and the principle of derivation. The first of these principles, which guide the fiscal relations among different spheres, is “based on the geographical incidence of different public goods, allocative efficiency requires the equalization of *locational advantages* (emphasis added) arising from interjurisdictional differences with a combination of public goods and services.” On the other hand, the derivation principle requires that “the component units of a system should be able to control some of its own resources as they desire” (Ekpo, 2004: 26-28).

The finding of an acceptable revenue allocation system for Nigeria and the struggle to control national resources has been one of the most protracted issues in the country (Chibueze, 2011: 121-122). However, the debate on the existing revenue distribution formula and its derivation principle is likely to proceed among Nigeria’s six zones and thirty-six states. Amongst other pragmatic concerns of the previous military regimes, one of the basic motives behind the adoption of current thirteen percent of derivation principle was to provide an equitable basis for development of all Nigerian states not only the ones endowed with natural resources. In theory, Nigerian revenue allocation system deserves all of the credit because the derivation principle allows resource-rich states to compensate the damages of resource

extraction while the application of further criteria as the population and the number of LGAs provides an equal or fair distribution of national revenues to the other states which lack such resources. This could be an effective conflict management strategy if the application of such principles did not disadvantage the South-South states where most of the oil deposits are located. These states, therefore, advocate for more control over the natural resources extracted from their territory and more importantly, they stress the need for ecological rehabilitation. The problem, here, mostly stems from the fact that Nigeria's oil-producing states were not compensated for their suffering from all of the ecological and economic problems. These regions should either be granted additional derivation and more resource control capacity or the Nigerian government should take further steps for the development of the region in order to compensate for negative environmental impacts of oil production.²¹⁴

5.4. CONCLUDING REMARKS

Apart from the application of federal principles, Nigerian governments have adopted many other various strategies to contain the enormous diversity of the country and thus, reduce its protracted ethno-regional and ethno-religious conflicts. Like South African Truth and Reconciliation Commission and the abolition of Bantustans, these measures are not directly related to the federal character of the country, but are still a part of the broader project of conflict management. Among many of them, the constitutional provisions on language are pivotal when preserving national unity in diversity. The official language of Nigeria is English. However, the 1999 Constitution preserved the constitutional provisions of the 1979 Constitution (Section 51) and 1989 Constitution (Section 53) which ensure that "the business of the National Assembly shall be conducted in English and in Hausa, Ibo and Yoruba when adequate arrangements have been made therefor" (Chapter V, B(55)). Although some minority leaders criticize this clause which guarantees the development of the three languages through a constitutional protection, Adamolekun hold that language

²¹⁴ It must be acknowledged that Nigerian governments established many commissions and institutions in order to reduce the developmental gap of the region, however, all of these attempts failed especially as a result of poor funding. In this context, it is advised that Nigerian government should condition the derivation fund of oil-producing states to specific development projects in order to prevent the local élites misappropriate these funds (Ebegbulem, 2011: 227).

issue has not become an important source of conflict in Nigerian federalism (1991: 7). This is probably because of the adoption of a foreign language which is assumedly spoken by the majority of Nigerian population could more easily provide national and linguistic unity of the country. More importantly, the use of English rather than the language of Hausa, Igbo or Yoruba could preclude a linguistic domination of one of these three largest ethnic groups and provide a space for the development of minority languages. Moreover, Nigerian Constitution does not privilege any of these three languages over the others but recognize them an equal status before the law.

In some of Nigerian states, the linguistic diversity of the country²¹⁵ is accommodated through broadcasting of news on radio and television in different local languages in addition to English. Such policies are assumed to ensure that Nigerian linguistic groups will not fear a cultural assimilation or extinction of their languages. Moreover, if one of the dominant indigenous languages acquires the status of Nigeria's official language, this could exacerbate already existing ethnic tensions (Adamolekun and Kincaid, 1991: 177). However, despite the relative neutrality of English, Nigeria's different ethnic groups have rightly been critical of the status of a foreign language as *lingua franca*.

Tamuno informed about the pessimism on the future of Nigerian federalism among observes inside and outside the country in mid-1960s, shortly after the independence of the country. This attitude was highly related to the failure of the federal examples around the world including Africa (1970: 563). The pessimism is still prevalent among some Nigerian politicians as well as ordinary Nigerians. As similar to that of South Africa, students of Nigerian federalism are also divided in their arguments on the efficiency of federalism in the country in managing the existing conflicts although Nigerian federalism is evaluated by many experts as a success story. Ojo, for example, defines federalism as a "bedrock" for a country of Nigeria's size and diversity and as the best option to accommodate existing diversities (2009: 384, 387). Some experts also hold that federalism in Nigeria could "hold the country together" which indicated that federal unity is the only form of national unity for Nigeria (Burgess, 2012: 13). There are also other students who

²¹⁵ See Appendix 13 for Nigerian Linguistic Groups.

believe that Nigerian federalism hold a promise to solve the country's many problems. Adamolekun and Kincaid, for example, define Nigerian federalism as a "promising political system" for African countries. As the authors note, despite all the shortcomings, Nigeria have persistently maintained its federal system (1991: 173). Federalism in Nigeria also provided the coexistence of major ethnic groups while enabling some groups their own state (Dent, 2000: 162). Having the only sustained federal system for nearly a half century makes Nigerian federal experience a unique case study.

However, Nigerian federalism is not free of criticism.²¹⁶ Like South African quasi-federalism, the practice of federalism in Nigeria is a contentious issue given that Nigerian federal system is also highly centralized and like South African provinces, federal states in Nigeria are dependent on the transfers from the central government. In addition to the concentration of power and resources in the center, Nigerian revenue allocation formula is also controversial. The problematic nature of Nigerian citizenship based on indigeneity clause was already discussed. Nigerian people born in a state different from their residence are exposed to discriminatory policies. This issue generates an ever-lasting "indigenous versus settlers" debate where settlers lack most of the rights entitled to the former. The indigeneity clause also does not contribute in any sense in managing overlapping cleavages among Nigeria's many ethno-regional and ethno-religious groups. This requires that the concept of Nigerian citizenship has to change in order to provide true national integrity. In addition to the problems encountered in the operation of the federation, there are also disagreements over election results and census figures. Military leaders have been the primary actor in shaping the structures of the federal government for long years and the long periods of military rule is criticized for the democratic deficit -following the coups d'état- characterized by military rule.

There are many other problems inherent in the federal system of the country which is not freely discussed or negotiated (Ayua, 2005: 31). In 1977 and 1987, the

²¹⁶ Against the critiques of Nigerian federalism, many scholars including Dent (2000) question what would happen if Nigeria continued to be unitary after the Unification Decree of the Ironsi government. Dent arrives at the conclusion that the result would be the revolts of certain groups feeling that their identity is under attack. Here, it also an important argument that the strong tribal cohesion among the three major ethnic groups and regional identities which were fostered by British made the establishment of a unitary state in Nigeria impossible (2000: 161, 167).

constituent assemblies convened to discuss the draft constitutions, however, “they were not allowed to fully debate the federal aspects of the constitution -because these were regarded by the military authorities as given or ‘no-go’ areas” (Olowu, 1991: 170). As a result, the call for the application of “true federalism” especially from Southern governors in Nigeria is a continuous one. In a summit where the Governors of all federal states from South-East and South-South zones met in Lagos in 2000, the Governors emphasized the very necessity for true federalism while also focusing on the need for fiscal autonomy where the states could control their own resources (Nze and King, 2005: 234). In early 2013, the demand for the practice of true federalism was still a hot topic in Nigerian politics. Senate President David Mark called for fiscal federalism which would allow states to develop by using their own natural resources while another senator Smart Adeyemi also criticized state governors for depending on federal allocations (Peoples Daily, 21 February 2013). Dayo Fafunmi, a member of Lagos State House of Assembly; Domingo Obende, senator of Edo North, and Otunba Henry Oladele Ajomale, the chairman of the Action Congress of Nigeria (ACN) in Lagos, are among many Nigerian politicians advocating the decentralization of power in order to make Nigeria develop and achieve true federalism (Adebayo, 29 October 2012; Adesanya, 11 March 2013; Akinola, 11 May 2012). On July 16, four governors from four northern states (Niger, Jigawai Kano and Adamawa) also made their call for true federalism through a communiqué jointly signed by them (PM News, 17 July 2013).

Another obstacle on Nigerian unity is the lack of national cohesion among Nigerian ethnic groups who are constantly in conflict and competition for state resources (Ojo, 2009: 384-385). Many ethnic and regional leaders use their ethno-regional identities in order to receive some political gains from the central government and thus, win the support of their constituencies. This explains why some experts and politicians point out that the main problem of Nigerian federalism is to coexist in harmony and to develop a sense of oneness, (Azikiwe, 1965: 461), or in other words, Nigerianness. Since independence, it is a great challenge for Nigerian politicians to combine regional identities with a Nigerian identity (Dent, 2000: 157). Particularly as a result of the existing cleavages and sources of inequality, Nigerians define themselves mostly in terms of their ethnic origins rather than in terms of a

Nigerian nationhood. In a national public attitude survey, Nigerians were asked major sources of conflicts in their societies. The most frequently mentioned causes by the respondents were local issues including land and boundary disputes (as conflicts between Tiv and Jukun, Ife and Modakeke, and clashes among the Ijaw and Itsekiri), religious differences (especially in Kaduna, Kano and Jos) as well as ethnic or tribal cleavages (especially in Lagos, Aba, Kaduna and Sagamu). Here, it is interesting that 61 percent of the respondents believed that the government handled conflict resolution well while only 37 percent argued that the government is not doing a good job on that matter. More interestingly, respondents said that they would prefer traditional leaders (23 percent), religious leaders (13 percent), or even armed forces/police (16 percent)²¹⁷ if they were asked to choose an agency to solve the conflicts but not the government at all (5 percent) (Lewis, Alemika and Bratton, 2001: 39). This indicates how regional or ethnic identities have more appeal than a national identity and why Nigerian governments should do better in order to create an identity of oneness. As Mustapha notes, the lack of a common nationalist movement and a strong nationalist leader like Mandela of South Africa or Nkrumah of Ghana also makes Nigerian unity harder to achieve (Mustapha, 2007: 6). In order to maintain national unity, Nigerian leaders have to focus on establishing a Nigerian identity that cut across existing ethnic, regional or religious divisions while at the same time, respect and promote diversity. However, it is not easy to manage conflicts in Nigerian society given that the country's ethnic, religious, regional and administrative cleavages sometimes overlap.

The sources of Nigerian North-South confrontation, the religious divide, economic imbalances and ethnic conflicts were analyzed within the previous chapter. The focus of this chapter was to analyze major (federal) mechanisms of the Nigerian government designed to address the issues that generated conflicts. The findings of the chapter indicated that the application of these measures in easing inter-group tensions is problematic while being still in progress. In order to soften the fears of minorities or some ethnic communities over the domination or exclusion by major ethnic groups, Nigeria's three regions were divided into smaller units. However, not

²¹⁷ Remember that especially Nigerian police force does not have a good reputation among many Nigerian groups given that they are blamed to favor some ethno-regional groups over others and tend to discriminate particular groups.

all of these groups are pleased from the determination of state boundaries. Both military and civilian élites tried to meet regional autonomy or representation demands of ethno-regional groups by creating their own states or by proliferating the number of local governments. Nevertheless, the first part of this chapter explained why state creation is a topical issue in Nigerian politics and why the agitation for the creation of more states has continued to be an indispensable part of Nigerian conflicts.

Nigerian governments focused on the equal representation of all ethnic groups not only in national, regional or local levels but also in all parts of society. The federal character principle of Nigerian constitution ensures that all Nigerian groups have a quota for the representation of their members in public posts including Nigerian army, Nigerian police force and security agencies of the government. This principle is also applied in admissions to public schools. Although federal character principle was inserted to the 1979 and 1989 constitutions, it was reinforced with additional clauses in the recent 1999 constitution. In order to monitor the application of this principle, the Federal Character Commission (FCC) was established in 1996. The FCC reflects the desire of Nigerian policy-makers to alleviate the fears of minorities over majority domination or discrimination and to implement the government motto of equality among the member states of the federation. Another (federal) conflict management strategy of Nigerian leaders was the implementation of a new revenue sharing formula and the derivation principle. However, while the federal character principle privileges representation over merit or quality; revenue allocation formula favors equivalence over the principle of derivation. It therefore, offended the minorities of the Niger Delta region who produces the bulk of nation's revenues but still remain economically impoverished and politically marginalized.

The major drive of ethno-regional conflicts was the representation problem, predominance of some ethnic groups in government institutions and the fact that some major ethnic groups hold more access to state resources. The increase in the number of state and local units was an important step in allaying the fears of the disadvantaged groups. However, this resulted in constant demands for the establishment of additional states and local governments while, at the same time, resolving the threat of secession. The application of the federal character principle

provided representational equality but brought about many discussions and critiques involving the argument that it works against national development. The issue of economic disparity was sought to be resolved through the introduction of a new resource distribution formula by allocating equal revenue to each state unit. However, it also lacked great support especially in the oil-producing states of the Niger Delta. While analyzing the relative failure of Nigerian federalism in conflict management when compared to that of South Africa, one should consider the fact that federalism is a process and, thus, the conflict management capacity of federal applications is better seen in the middle or long-term. Moreover, it is not the “federal idea” which failed in the Nigerian case but the lack of full implementation of federal principles -which requires some revisions. Moreover, Nigerian federalism and the federal measures adopted to contain inter-group cleavages have been successful in providing the territorial integrity of the country, which was once the major threat on national unity.

CONCLUSION

Töpperwien puts that “while federalism may not solve all conflicts, it can provide peaceful mechanisms for conflict management” (2009: 4). Federal applications indeed provide necessary institutional arrangements to satisfy the demands of different ethno-regional groups and thus, provide non-violent measures to manage conflicts without endangering territorial integrity. However, one should also consider that conflicts cannot be fully resolved in each and every case but can only be managed. Federal arrangements are also more successful in some cases than the others for various reasons. Nevertheless, it is not the success or failure of the federal idea itself but its multiple applications and the institutional arrangements which determine whether federal solutions can produce the desired outcomes and respond to diverging demands of different groups. The very purpose behind the opting of federal principles in our cases was the desire to manage conflicts prevalent in these societies. A comparative analysis in Nigeria and South Africa indicated how different federal applications provide different mechanisms in conflict management.

Nigeria and South Africa are accepted by many experts as regional powers, they all have rich and enormous natural resources as well as growing economies. They are among the largest and most populous countries of Africa. Moreover, both countries are multiethnic in character and have a history of (ethnic) conflicts which divided their countries for decades and even for centuries. Both have a federal system of three orders of government which are constitutionally recognized and empowered. South African constitution does not formally define the country as federal; however, there is empirical evidence to believe that South Africa is a federal country in essence. On the other hand, Nigeria is Africa’s oldest federal republic and its federal character is explicitly defined in all of the post-independence constitutions including the current 1999 Constitution. Conflict management processes evolved in very different ways in Nigeria and South Africa. As analyzed in more detail within the chapters devoted solely to the cases, South African case differs from Nigeria in other various aspects. The most important of them is the fact that in the former, the ethnic groups demanding self-determination were satisfied through granting of provincial autonomy in addition to federal promises in the negotiation process and

federal principles as well as further community rights included in the new constitution. The inclusion of all groups to the negotiation process and the determination to sustain negotiations also played fundamental roles in the success of this process. However, in the latter, political élites failed to provide such “an all-parties’ involvement” in the political process. The long periods of military rule also complicated this process. Nigerian elites sought to solve the diversity-related problems and existing cleavages by enabling equal rights to ethno-regional groups providing them access to government resources as well as by increasing the number of federal states and adopting a new revenue-allocation formula.

Table 7: Comparison of Nigerian Federal System and South Africa’s Quasi-Federal System

	Nigeria	South Africa
Impetus for the Creation of the Federal System	Independence deal involving colonialist and regional elite	Pact among parties, ethnic and racial elites
System Transformation	Elite bargain strong center	Power-sharing pluralist democracy
Primary motivation for creation of Federal system	Political	Political
Defining Feature	Hyper-centralization based on control of revenue collection and distribution	Some centralization within the context of “cooperative government” with a dominant role for the federal government in revenue collection and distribution
Number of States/Provinces at Inception	Three	Nine
Current Number of States	Thirty-six and the Federal Capital Territory of Abuja	Nine
Significance of the Racial/Ethnic factor in state creation	None initially, considerable now	Primary
Primary objective of federal system	Reduction of regional inequality	Eliminate racial and regional inequality and bring government closer to the people
Secessionist activity	Biafran War late 60’s	KwaZulu-Natal 1996, none since
Irredentist Claims	None since early ‘70’s	None
Regional State Autonomy	Weak-limited	Limited

Source: Abstracted from Keller, 2007: 32-33 (Politico-Administrative Reform and Political Transition in Nigeria, Ethiopia, and South Africa. *The International Journal of African Studies*. 6(1): 3-35).

Sources of conflict differ in each case; although in both cases, British colonialism generated long-lasting conflicts between ethnic, religious, regional or

racial groups. The seeds of South Africa's ethnic conflicts were planted by the introduction of the apartheid system with the NP rule in 1948. The colonial government created homelands and self-governing territories where the white, coloured and black population lived in separate areas. Through the successive laws, the black population was excluded from many walks of life, denied the right to govern their own country and forced to live in homelands or "Bantustans" where underdevelopment, poverty and unemployment were very high especially when compared with non-bantustan areas. Similarly, the British Empire further contributed to the intensification of already existing ethnic divisions in Nigeria and created separate regional governments having diverging administrative structures. The origins of Nigerian conflicts lie in the inequalities in administrative, bureaucratic, socio-economic, political and educational areas whereas these conflicts has ethnic, regional and religious basis. Northern and Southern parts of Nigeria were historically divided along ethno-regional and ethno-religious lines. It can be concluded that the North was administratively and bureaucratically developed while the South was industrially and economically more developed. That is, the North was the political center of the country while the South was the economic center. British colonialism involuntarily amalgamated these two regions in a territory later become Nigerian state.

The role attributed to ethnicity also makes two cases different. In South Africa, the two key players of the negotiation process, the NP and the ANC were committed to build a non-racial South Africa. Especially the former was against the establishment of an ethnic federalism as similar to that of Ethiopian ethnic-based federal system which takes ethnic groups as units of self-government. As noted, the bad connotation of banstustan policy of the apartheid government also had a role in the belief that ethnic politics should be avoided. In contrast with South Africa, the use of ethnicity as a way to attain political power is very common in Nigeria and Nigerian ethnic leaders emphasize their ethnic identities. The official policy of federal character also reinforces ethnic loyalties and identity politics even though Nigerian politicians try to transcend ethnic politics by seeking to provide equal access to state resources and state power for all ethno-regional groups. However, neither resource distribution nor allocation of public posts were determined along

ethnic identities but along state quotas. As similar to South Africa, state boundaries in Nigeria were not designed to reflect ethnic boundaries although in some cases, they correspond where one ethnic group predominantly inhabit. It is also the case that certain ethnic groups demanded their own states and were granted. This simply means that as opposed to South Africa, there is more emphasis on ethnicity both by national and ethnic leaders in Nigerian politics.

In South Africa, constitutional negotiation process played a pivotal role in accommodating diversity and managing conflicts. The major challenge of constitution drafters in the negotiation process was to contain ethno-cultural and racial cleavages existed in South African society for centuries. Historically, one of these conflicts was among the privileged white minority and the disadvantaged black majority who suffered from the apartheid's race-based structure creating inequality in every walk of life. As noted, the coloureds were relatively favored under the apartheid system when compared with the black population. During the national constitution-making process, a radical strand of the whites, the Afrikaners, demanded to establish a Volkstaat where they could constitute the majority of the population. There were also ethnic/tribal divisions among the black population. The Inkatha, for example, sought autonomy for KwaZulu province, struggled for self-determination and threatened with violence if this demand was not met. The claims of these two parties played an important role in the adoption of provincial system following the inclusive negotiation process. The inclusion of provincial interests in the 1996 constitution was the key in the constitutional efforts of peace-making.

The role played by political élites is also important in the adoption of federal arrangements and once adopted, true application of these federal principles. Spear and Keller focus on the role of leadership on conflict resolution and praise the attitudes of both DeKlerk and Mandela in this process. They hold that the role of strong leaders who have the respect of their followers and who are willing to negotiate and/or compromise is crucial in order to reach an agreement between the conflicting parties. These leaders give concessions and make sacrifices in order to achieve a greater and further goal, peace (1996: 123). The cooperation and common sense of DeKlerk and Mandela also facilitated to peacefully manage conflicts in South African society. South African constitution-making process is evaluated by

many experts as one of the most successful and remarkable transitions to democracy. The transition was made possible through a series of negotiations where the former rivals met several times to draft the new constitution of their country. South African case shows the importance of inclusive and active participation to the constitution-making process which was used as an important device to transcend cleavages. The mutual demands and concessions in this process eventually created a quasi-federal government system.²¹⁸

In Nigeria, the rulers chose decentralization as a way to manage ethno-regional conflicts (Fessha and Kirkby, 2008: 254). Nigeria's success in overcoming the danger of state disintegration and disorder as well as accommodating conflict is considered to be resulted from its federal structure which has the potential to be a model for conflict management and the governance of diversity not only for African countries but also for the whole developing world (Suberu, 2009: 67-86). Nigerian leaders, be they civilian or military, have re-organized state boundaries by increasing the number of federal states with constitutional amendments. Similar to the increase in the number of states, Nigerian governments also subdivided local governments and increased their number. Nigerian leaders further established institutions to reflect the federal character of the country and adopted geographical representation or revenue allocation formulas in order to provide equal representation and equal resource distribution for all Nigerian ethnic groups.

In South Africa, the decision for a constitutional negotiation process was taken by consensus between the two major representatives of black and white population; Mandela of the ANC and De Klerk of NP. The balance of power favored the ANC both before and during negotiation process; however, the party did not use its majority to emerge as a hegemonic power after negotiations. Instead, both parties

²¹⁸ In South African case, some parties withdrew from the negotiational constitution-making process for the reasons that their demands were not met. Furthermore, there were many disagreements among the major participants on various issues including the future shape of the government. The majority ANC supported the establishment of a central state while many of the other minority parties advocated the need for power-sharing arrangements which would provide self-determination or at least subnational autonomy. Many of the problems within the process could easily lead to the escalation of inter-communal tension and even transform into violent conflicts if they were not solved through the efforts and determination of the representatives of all parties in the negotiation process as well as following bargaining and concessions by the related parties. The history of constitution-making process even transformed former enemies into allies whose interests were united in a democratic South Africa. Therefore, classical conflict management strategies of mediation, negotiation and bargaining explain South African case better rather than Nigeria.

made several concessions in order to achieve a true reconciliation in a country which was divided along racial lines. In Nigeria, it is the government determining the tools of conflict management and acting as the mediator between different ethno-regional groups. As noted, one of the major conflict management tools of Nigerian civil and especially military governments was to increase the number of states and local units, however, this initiative is criticized for the reason that state representatives were not consulted in the creation of new states. It can be concluded that while in South Africa, negotiations were actually a bargaining process between various members of the opposing sides having asymmetric powers, in Nigeria; it is the government acting as the mediator without negotiations.

Both Nigeria and South Africa have taken concrete constitutional steps in order to accommodate diversity and eliminate past injustices. In South Africa, the purpose behind the constitutionalism effort is to create institutions that will produce nonracial coalitions in order to preclude a likely self-identification of South African people based purely on ethnic or racial lines. Sunstein holds that this could be done by dividing people along geographical lines which would also allow a substantial degree of self-government for the racial and ethnic minorities (1993: 440-441). From this perspective, in South Africa, the federal institutions were suggested to reduce ethno-racial tensions by securing peace and security in the country after years of segregation (Sunstein, 1993: 422). As oppose to South Africa, Nigerian constitutions were not made through processes of broad-based dialogue and inclusive participation of Nigeria's diverging ethnic groups, but rather, they were made by military leaders. However, many federal provisions were added to all of the post-independence constitutions in order to manage diversity and ease inter-group tensions.

The analysis of South African and Nigerian federalism provided in preceding chapters indicated how federations differ both in theory and in practice. That is to say that, federations differ both in their constitutional provisions and in the applications of federal principles. These two African countries divided along ethnic, religious, tribal or racial lines also differ in the strategies that they adopt(ed) in order to mitigate conflicts. In South Africa and Nigeria, conflict management processes also evolved in different ways. In the former, this process has been mostly completed with the adoption of 1996 constitution and transition to democracy. This was

followed by the implementation of further measures that will help reconciliation between the historically adverse ethno-racial groups. As for Nigeria, conflict management has taken more time and proceeded up until today. This is why in South Africa, we focused on the period between 1994-1996, that is, the transition era, while in Nigeria, we have focused on all measures taken both by military and civil leaders from independence until today.

The major argument of the study is that South Africa's quasi-federal model of government has been relatively more successful in regulating conflicts than the still-evolving federal system of Nigeria despite the fact that conflicts cannot always be entirely resolved but can be managed.²¹⁹ Another argument advanced in this study is that federal institutions can serve as meaningful devices in managing conflicts especially when the subnational governments can hold a significant degree of political, administrative and fiscal autonomy. Effective management, thus, requires a substantial degree of regional autonomy. However, provinces have limited revenue-raising capacity in South Africa and therefore, remain dependent on the funds delivered by the central government. The fact that South African provinces have limited autonomy especially in fiscal areas is partly related to the decrease in the self-deterministic demands of two ethnic groups and partly related to the central government's lack of interest in devolving more powers to provinces. Yet, this is not to say that provincial governments do not have any competencies at all.²²⁰ Moreover, this problem is related with the operation of South African federalism not with federalism's ability to accommodate conflicts given that conflict management process in the country is almost over and was replaced with a more comprehensive reconciliation process. The relative success of South African federalism in conflict management is related to various factors. This include the determination of South African leaders to provide an all-parties involvement in the constitutional negotiation process, federal concessions extracted from the ANC in this process and the

²¹⁹ There are many other factors which facilitated the conflict management process in South Africa. For example, South Africa is one of the world's leading economies despite the fact that it was exposed to many sanctions especially during the last years of the apartheid regime. Moreover, the great number of Nigerian ethnic groups made the conflict management process even more complicated. However, these non-federal features are beyond the scope of this PhD dissertation.

²²⁰ This reminds the argument put forward by Fessha and Kirkby that even though regional autonomy is not a panacea to solve many of the problems of the African state including conflict management, many years have to pass in order to deliver services to meet local needs by transferring powers to federal states (2008: 252).

inclusion of a comprehensive bill of rights focusing on community rights rather than ethnic rights in the post-apartheid constitution. Many other (non-federal) initiatives also contributed to this process which focused on the protection of diversity and cultural rights of different ethno-racial groups.

Nigerian political leaders adopted a quota system and a revenue allocation formula based on equal representation of federal states. Another major mechanism of conflict management in Nigeria was to increase the number of (federal) states and local governments although as similar to that of South Africa's, Nigerian states also lack a sufficient degree of autonomy. Increasing the state numbers was used as an important conflict management strategy following the independence years; however, it was inevitable to arrive at a dead-end given that proliferating state units would not last forever. Since 1996, no new state was created. The number of local governments was also increased; nevertheless, after the adoption of 1999 Constitution, their number also remained almost constant. Nigerian governments, therefore, sought other measures to satisfy the demands of ethno-regional groups and to resolve their complaints. Federal character principle was inserted into 1979 and 1989 constitutions but it is the current 1999 Constitution which includes detailed provisions on federal character through which the principle gained a more comprehensive application area. In order to monitor and investigate the application of the federal character principle, the Federal Character Commission was established. Another purpose behind the establishment of the FCC was to reflect ethnic diversity of the country and decrease the resentment as well as dissatisfaction of some groups from the existing system. This could contribute to overcome intransigent and recurrent ethno-regional and ethno-religious conflicts in the country. Although the conduct of FCC's affairs is subject to many attacks and criticism from observers, the federal character principle provided a non-violent mechanism to satisfy group demands for representation. Nigerian 1999 Constitution also specified a new revenue allocation system for the federating units. This is based on the derivation formula for oil-producing states and other principles to distribute national revenues such as population or state equality for non-oil producing states. Yet, both the revenue allocation formula and federal character principle have their own inherent problems which inhibit their full implementation. Thus, they were unable to meet equality demands of all groups who

criticize these policies. Deficiencies in this area led us to arrive at the conclusion that although successive Nigerian governments took concrete steps to manage existing ethno-regional conflicts, South African federalism has been more successful in conflict management. However, as discussed before, both Nigerian federalism and its conflict management mechanisms are still evolving given that federal systems are indeed processes. One major success of Nigerian federalism has been to provide the territorial integrity of the country, which was once the major threat on national unity.

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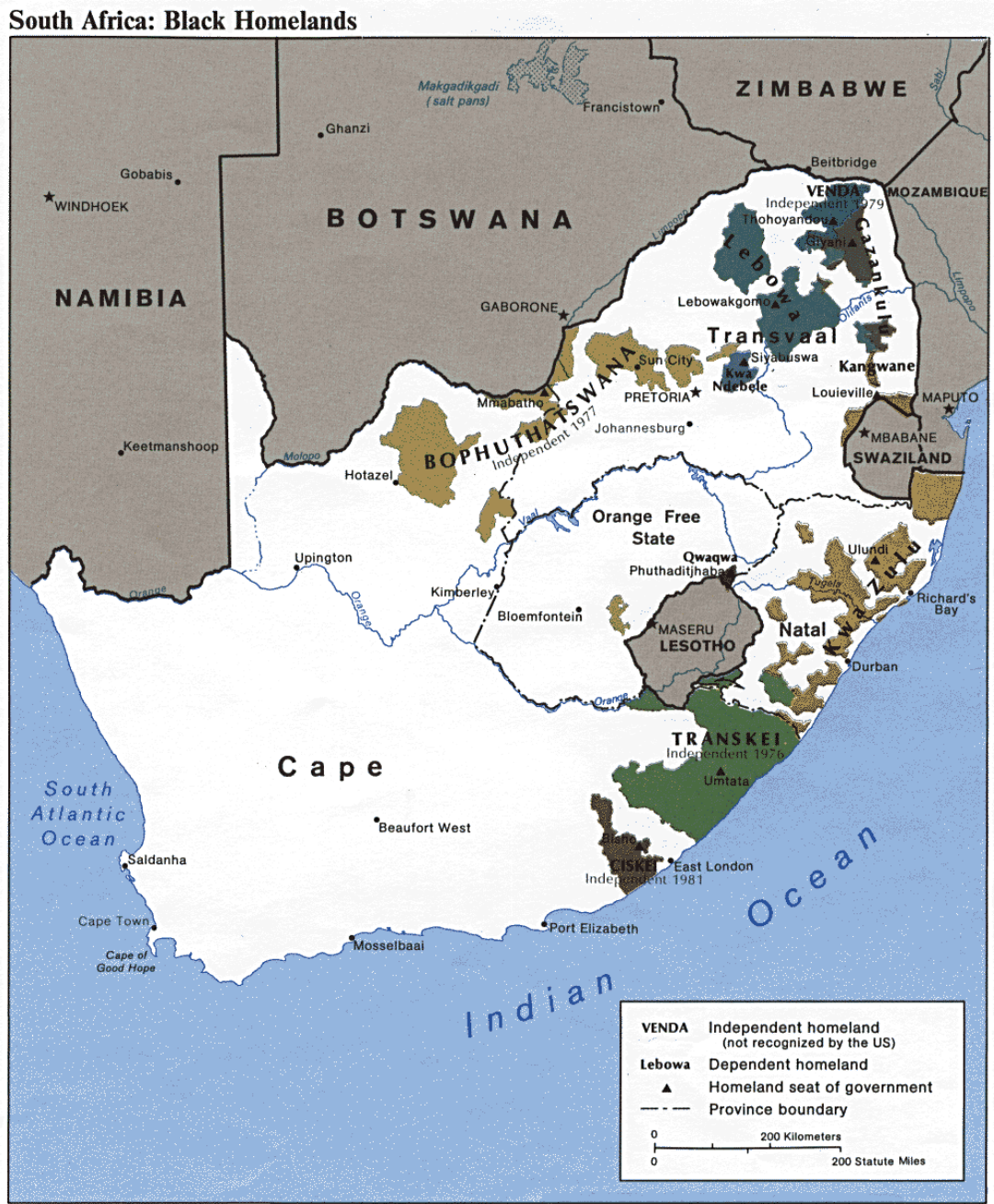
APPENDICES

Appendix 1: Location of Nigeria and South Africa



Source: http://commons.wikimedia.org/wiki/File:Nigeria_South_Africa_Locator.png

Appendix 2: Map of South African Homelands



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Source: The University of Texas at Austin. Perry-Castañeda Library Map Collection. http://www.lib.utexas.edu/maps/africa/south_african_homelands.gif

Appendix 3: South African Provinces



Source: The University of Texas at Austin. Perry-Castañeda Library Map Collection. http://www.lib.utexas.edu/maps/africa/safrica_provinces_95.jpg

Appendix 4: Mid-Year Population Estimates by Province, 2010

	Population Estimate	Percentage Share of the Total Population
Eastern Cape	6,743,800	13,5
Free State	2,824,500	5,7
Gauteng	11,191,700	22,4
KwaZulu-Natal	10,645,400	21,3
Limpopo	5,439,600	10,9
Mpumalanga	3,617,000	7,2
Northern Cape	1,103,900	2,2
North West	3,200,900	6,4
Western Cape	5,223,900	10,4
Total	49,991,300	100,0

Source: Statistics South Africa. (2010). Mid-year population estimates, 2010.

Appendix 5: Population Groups by Province

Population Group	Eastern Cape	Free State	Gauteng	KwaZulu-Natal	Limpopo	Mpumalanga	Northern Cape	North West	Western Cape	South Africa
Black African	87,5	88,0	73,8	84,9	97,2	92,4	35,7	91,5	26,7	79,0
Coloured	7,4	3,1	3,8	1,5	0,2	0,7	51,6	1,6	53,9	8,9
Indian/Asian	0,3	0,1	2,5	8,5	0,2	0,4	0,3	0,3	1,0	2,5
White	4,7	8,8	19,9	5,1	2,4	6,5	12,4	6,7	18,4	9,6
Total	100,00	100,0	100,0	100,0	100,0	100,0	100,0	100,0	100,0	100,0

Source: Statistics South Africa. (2003). Census 2001: Census in Brief. p. 12.

Appendix 6: Republic of South Africa General Election Results – National Assembly: Percentage of Votes and Allocation of Seats

	1994		1999		2004		2009	
	%	Seats	%	Seats	%	Seats	%	Seats
African National Congress (ANC)	62.6	252	66.35	266	69.69	279	65.90	264
National Party (NP)- New National Party/Nuwe Nasionale Party (NNP)*	20.4	82	6.87	28	1.65	7	-	-
Inkatha Freedom Party (IFP)	10.5	43	8.58	34	6.97	28	4.55	18
Vryheidsfront/Free Front (VF-FV)/VF Plus	2.2	9	0.80	3	0.89	4	0.83	4
Democratic/Demokratiese Party (DP)	1.7	7	9.56	38	-	-	-	-
Pan Africanist Congress of Azania (PAC)	1.2	5	0.71	3	0.73	3	0.27	1
African Christian Democratic Party (ACDP)	0.5	2	1.43	6	1.6	7	0.81	3
United Democratic Movement (UDM)	-	-	3.42	14	2.28	9	0.85	4
Independent Democrats (ID)	-	-	-	-	1.73	7	0.92	4
United Christian Democratic Party (UCDP)	-	-	0.78	3	0.75	3	0.37	2
Democratic Alliance/Demokratiese Alliansie (DA)**	-	-	-	-	12.37	50	16.66	67
Congress of the People (COPE)***	-	-	-	-	-	-	7.42	30
Others	0.9	0	1.5	5	1.36	3	1.44	3
Total	100.00	400	100.00	400	100.00	400	100.00	400

Source: The data related to 1994 elections is abstracted from the website of Election Resources on the Internet while the data on 1999, 2004 and 2009 elections are abstracted from the Elections Reports of Electoral Commission of South Africa.

*National Party, the ruling party during apartheid years changed its name as the New National Party in late 1998 in order to renew its image and distance itself from its past whilst also adopting a new emblem and flag. Following the 2004 decision to disband the party, most of the senior members joined the ANC.

**Democratic Alliance is the name of the party which was established in 2000 through the merging of the New National Party, Democratic Party and the Federal Alliance. The NNP withdrew from the Alliance in 2001 in order to join an alliance with the ANC. Democratic Alliance is now the official opposition party in South African political life.

*** Congress of the People was founded in 2008 before the 2009 Elections by the former members of the ANC.

Appendix 7: Republic of South Africa General and Provincial Election Results – Provincial Legislatures: Allocation of Seats

	1994				1999						2004						2009					
	ANC	NP	IFP	T*	ANC	NNP	DP	UDM	IFP	T	ANC	NNP	DA	UDM	IFP	T	ANC	DA	UDM	COPE	IFP	T
	Seats				Seats						Seats						Seats					
Eastern Cape	48	6	0	56	47	2	4	9	0	63	51	0	5	6	0	63	44	6	3	9	0	63
Mpumalanga	25	3	0	30	26	1	1	1	0	30	27	0	2	0	0	30	27	2	0	1	0	30
KwaZulu-Natal	26	9	41	81	32	3	7	1	34	80	38	0	7	1	30	80	51	7	0	1	18	80
Northern Cape	15	12	0	30	20	8	1	0	0	30	21	2	3	0	0	30	19	4	0	5	0	30
Limpopo**	38	1	0	40	44	1	1	1	0	49	45	0	2	1	-	49	43	2	0	4	0	49
North West	26	3	0	30	27	1	1	0	0	33	27	0	2	0	0	33	25	3	0	3	0	33
Free State	24	4	0	30	25	2	2	0	0	30	25	0	3	0	0	30	22	3	0	4	0	30
Gauteng	50	21	3	86	50	3	13	1	3	73	51	0	15	1	2	73	47	16	0	6	1	73
Western Cape	14	23	0	42	18	17	5	1	0	42	19	5	12	1	0	42	14	22	0	3	0	42

Political Parties in Provinces

	1994	1999	2004	2009
ANC	7	8	9	8
NP/NNP	1	0	0	-
IFP	1	1	0	0
DA	-	-	0	1

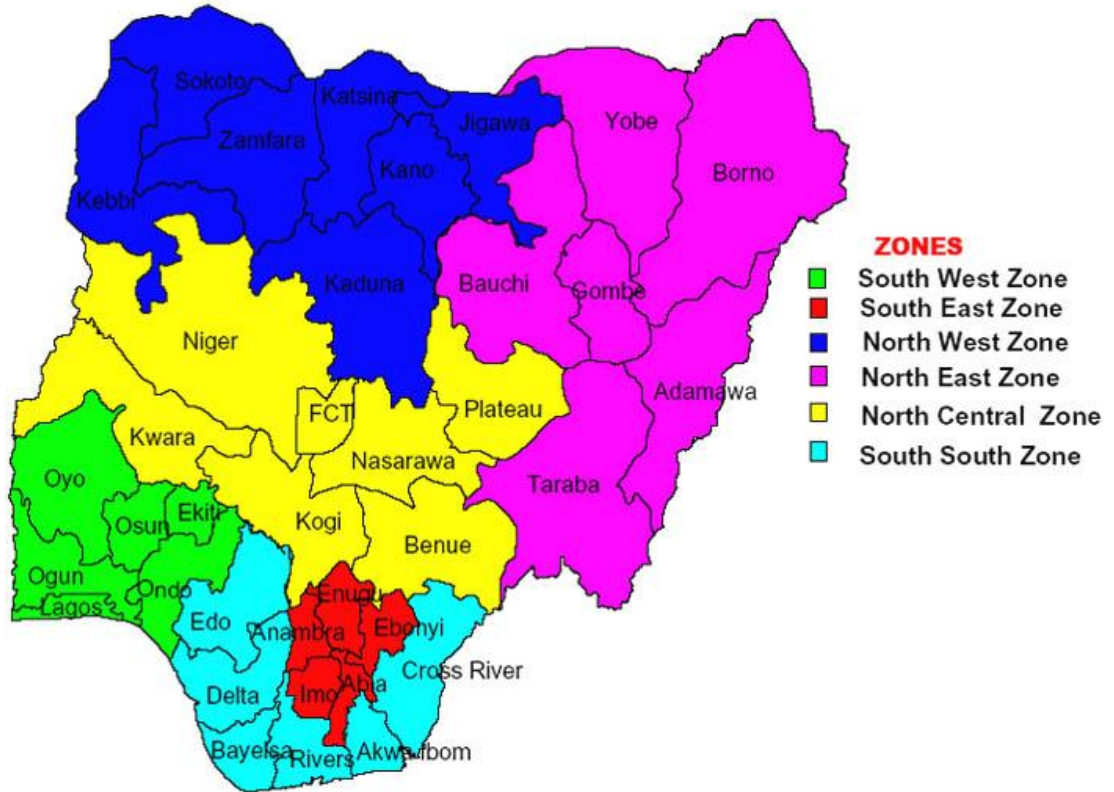
Source: The data related to 1994 elections is taken from the website of Election Resources on the Internet while 1999, 2004 and 2009 elections are from the Elections Reports of Electoral Commission of South Africa.

*T means total result.

** Northern Province was formally renamed as Limpopo in 2003 following a constitutional amendment.

Appendix 8: Map of Nigerian States and Geo-Political Zones

NIGERIA GEO-POLITICAL ZONES



Source: <http://collections.infocollections.org/whocountry/en/d/Js7928e/4.1.html>

Appendix 9: Nigerian 2006 Census – Population Distribution by States

		Census 2006	Percentage Share of the Total Population
North West	Jigawa	4,361,002	3,11
	Kaduna	6,113,503	4,35
	Kano	9,401,288	6,69
	Katsina	5,801,584	4,13
	Kebbi	3,256,541	2,32
	Sokoto	3,702,676	2,64
	Zamfara	3,278,873	2,33
North East	Adamawa	3,178,950	2,26
	Bauchi	4,653,066	3,31
	Borno	4,171,104	2,97
	Gombe	2,365,040	1,68
	Taraba	2,294,800	1,63
	Yobe	2,321,339	1,65
North Central	Benue	4,253,641	3,03
	FCT Abuja	1,406,239	1,00
	Kogi	3,314,043	2,36
	Kwara	2,365,353	1,68
	Nasarawa	1,869,377	1,33
	Niger	3,954,772	2,82
	Plateau	3,206,531	2,28
South West	Ekiti	2,398,957	1,71
	Lagos	9,113,605	6,49
	Ogun	3,751,140	2,67
	Ondo	3,460,877	2,46
	Osun	3,416,959	2,43
	Oyo	5,580,894	3,97
South East	Abia	2,845,380	2,03
	Anambra	4,177,828	2,97
	Ebonyi	2,176,947	1,55
	Enugu	3,267,837	2,33
	Imo	3,927,563	2,80
South South	Akwa-Ibom	3,902,051	2,78
	Bayelsa	1,704,515	1,21
	Cross-River	2,892,988	2,06
	Delta	4,112,445	2,93
	Edo	3,233,366	2,30
	Rivers	5,198,716	3,70
Total		140,431,790	100,0

Source: National Population Commission, Nigeria. (2010). 2006 Population and Housing Census of the Federal Republic of Nigeria: National and State Population and Housing Tables (Volume III) Abuja: National Population Commission. p. 17.

Appendix 10: Nigerian 2006 Census – Population Distribution by Zones

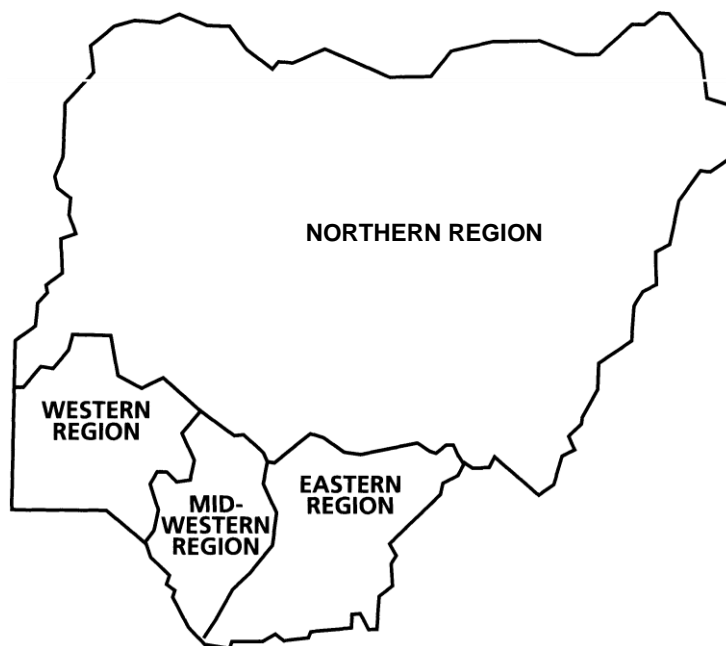
	Population Estimate	Percentage Share of the Total Population
North West	35,915,467	25.56
North East	18,984,299	13.55
North-Central	20,369,956	14.48
South-West	27,722,432	19.70
South-East	16,395,555	11.70
South-South	21,044,081	15.01
Total	140,431,790	100,0

Source: National Population Commission, Nigeria. (2010). 2006 Population and Housing Census of the Federal Republic of Nigeria: National and State Population and Housing Tables (Volume III) Abuja: National Population Commission. p. 17.

Appendix 11: Maps of Nigerian Three and Four Regions



Nigeria as a Federation of Three Regions, 1960-1963



Nigeria as a Federation of Four Regions, 1963-1967.

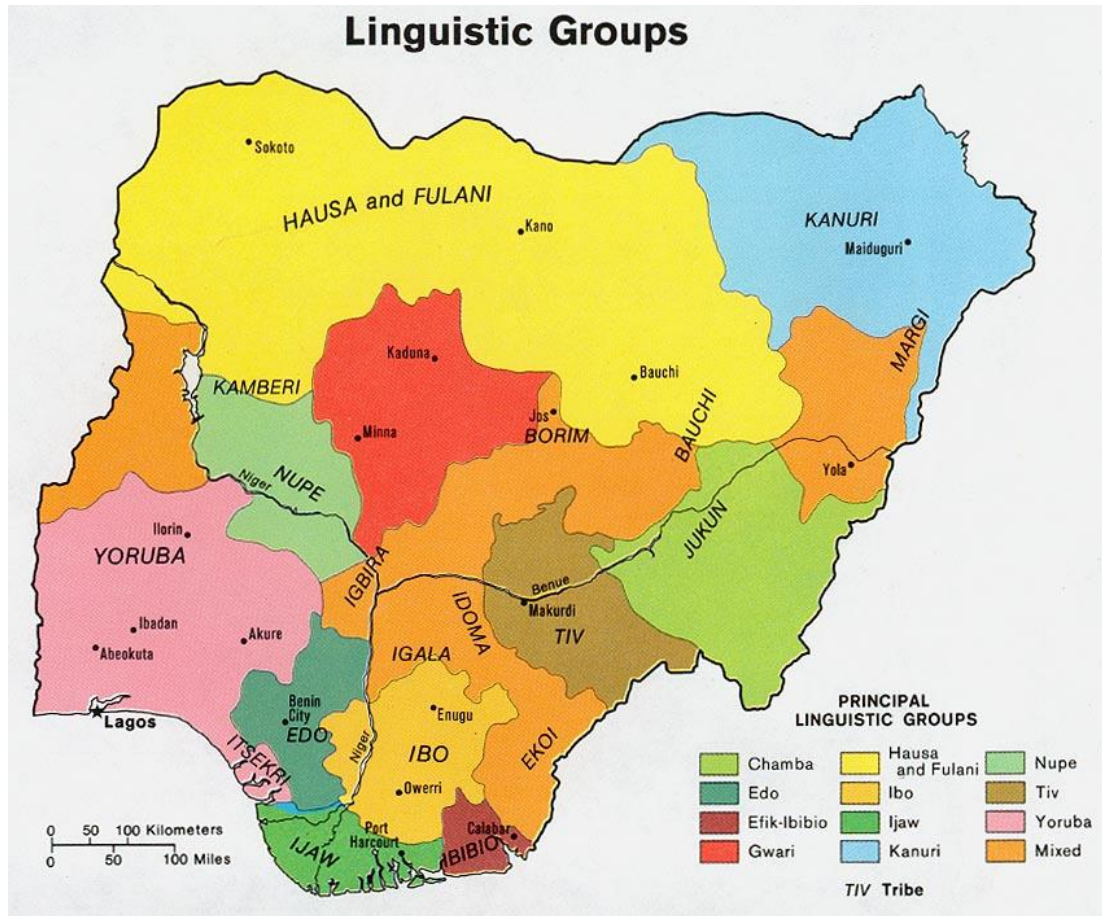
Source: Alapiki, H.E. (2005). State Creation in Nigeria: Failed Approaches to National Integration and Local Autonomy. *African Studies Review*. 48(3): 54, 57.

Appendix 12: Nigerian Local Government Areas

	State	Number of LGAs
North West	Jigawa	27
	Kaduna	23
	Kano	44
	Katsina	34
	Kebbi	21
	Sokoto	23
	Zamfara	14
North East	Adamawa	21
	Bauchi	20
	Borno	27
	Gombe	11
	Taraba	16
	Yobe	17
North Central	Benue	23
	FCT Abuja	6
	Kogi	21
	Kwara	16
	Nasarawa	13
	Niger	25
	Plateau	17
South West	Ekiti	16
	Lagos	20
	Ogun	20
	Ondo	18
	Osun	30
	Oyo	33
South East	Abia	17
	Anambra	21
	Ebonyi	13
	Enugu	17
	Imo	27
South South	Akwa-Ibom	31
	Bayelsa	8
	Cross-River	18
	Delta	25
	Edo	18
	Rivers	23
	Total	774

Source: Data Abstracted from National Population Commission, Nigeria. (2010). 2006 Population and Housing Census of the Federal Republic of Nigeria: National and State Population and Housing Tables (Volume III) Abuja: National Population Commission. p. 8.

Appendix 13: Map of Nigerian Linguistic Groups



Source: The University of Texas at Austin. Perry-Castañeda Library Map Collection. http://www.lib.utexas.edu/maps/africa/nigeria_linguistic_1979.jpg