

THE WILLINK MINORITY COMMISSION AND MINORITY
RIGHTS IN NIGERIA

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Abstract

Ethnic and minority rights issues coloured early nationalist politics and thus shaped Nigeria's decolonization. Ethnic criteria determined the evolution of political parties in the 1950s, thereby complicating the polarization of national and regional politics. Expediency compelled the regional parties to harmonize and jointly dialogue with the British colonial authorities over constitutional reforms that culminated in independence. In spite of this development, regional divergences persisted. From another perspective, leaders of minority ethnic groups agitated for their own different states with the imminence of independence. In the alternative, they demanded for constitutional safeguards as guarantees against their potential domination by majority ethnic groups in an independent Nigeria. In 1957, the colonial government convoked a commission to ascertain the facts, and thereupon, recommend measures of allaying the fears of minority ethnic groups in Nigeria. The popular idea among the minorities of creating separate states was rejected by the Willink Minority Commission in its report. In its place, it recommended that a "Bill of Rights" patterned along the European Convention on Human Rights be incorporated into the independence constitution as a way of guaranteeing minority rights through national integration. Consequently, copious provisions to protect some basic human rights and fundamental freedoms of all Nigerians were enshrined in the independence constitution. This article examines the debates about minority rights in the work of the Willink Commission and the circumstances leading to the enactment of human rights provisions in the Nigerian independence constitution.

Keywords : Willink Minority Commission, Minority rights, Nigeria, Human rights, National integration

Introduction

Nigeria emerged as a fragile social formation from the colonial partition of Africa. The fissiparous forces accommodated by the colonial arrangement vividly manifested during the decolonization process. In the terminal year of colonial rule, minority rights agitation emerged as one of the dominant national discourses. Post-independence politics intensified the endemic centrifugal forces within the Nigerian polity, peaking in complete absence of national consensus. This eventually culminated in a tragic civil war between 1967 and 1970. Nigeria has continued to grapple with an unresolved national question.

This article examines the debates about minority rights in the work of the Willink Commission and the circumstances leading to the enactment of human rights provisions in the Nigerian independence constitution. It is structured into five broad segments. This introductory aspect of the work is followed by an examination of the main concepts; origin of minority rights claims in contemporary Nigeria respectively. The other aspects of the work include an examination of the reports of the Willink Commission, the alleged cheap compromises among the ruling elite on the eve of independence (often categorized with contempt in the literature); and minorities' rights in the immediate postcolonial era respectively, which takes us to the conclusion.

The Concept

The concept of 'right' in the context of the national question is one plagued by definitional controversy. However, for moderation purposes, we have conceived right within the framework of this paper, as "legally enforceable claim to something" (Ibhawoh, 2008, p.17). On the other hand, an ethnic minority group connotes a group of people singled out from the others in the society in which they live for differential and inequitable treatment, and who consequently evolve consciousness of themselves as objects of collective discrimination (Akiyele, 1996, pp 71-94; Bello-Imam, 1987, p.266-281). Considered together, the concept of minority rights would mean right ful entitlements of a minority group. Minority rights within the framework of this study, therefore, characterizes the constitutional rights of minority ethnic groups in the closing years of British colonialism in Nigeria through independence down to the early postcolonial period.

Background: Origin of Minority Rights Claims in Contemporary Nigeria

The minorities question and related challenges in Nigeria are founded in the character and historical circumstances of the evolution of the Nigerian state, set in motion by the colonial initiative of Britain in

1900. The landmark event saw the establishment of effective political authority over three separate territories: the colony of Lagos and the protectorates of Northern and Southern Nigeria. This area was home to a multitude of politically autonomous mini states before the colonial conquest. They existed in diverse brands of social formations, including chiefdoms, kingdoms feudal aristocracies, and acephalous states. The merging of Lagos colony in 1906 with the protectorate of Southern Nigeria established two administrations in the country that was to effectively polarize it into North-South. And because the expediency of colonial governance dictated it, the 1914 amalgamation of the two protectorates was haphazard (Alapiki, 2005, p. 52), uniting the country mainly in name and geography.

The dynamics of WW II re-enforced incipient African nationalism in the post-war period which compelled the British to initiate constitutional reforms in the background to independence. The period between 1946 and 1951 specifically witnessed landmark political transformation in Nigeria with the granting of franchise. The initiation of the active participation of Nigerians in making their own constitution deepened the level of popular participation in Nigerian politics through the formation of political parties. The ugly side of this development, however, was that the nationalist movement which united all Nigerians, irrespective of ethnic configuration, in the anti-colonial struggle started to fragment along mainly ethnic divide (Ajayi, 1980, p.36). For one, beyond the amalgamation, Nigeria in all practicality remained a dual polity administratively, politically, and culturally (Alapiki, p.52), with each containing some volatile pockets of ethnic fragments. The prevailing bipolar administrative structure set the country on the evolution of diverse tradition, character and orientation. In spite of this divisive political atmosphere, a rudimentary sense of national consciousness had started to evolve in the country at the time the Richard's Constitution was introduced in 1946 (The Willink Commission Report, 1958, p.88-89).

Characteristically, the Richard's Constitution regionalized the country in a tripartite structure: east, north and west and thus introduced a new variable into the emerging political debate. Because the boundaries of the regions were not coterminous with ethnic lines, it generated the problem of minorities in the different regions (Rotchild, 1964, p.40). The colonial administration aimed to produce a Nigerian federation through this triangular structure with legislative power respectively. Unfortunately, this had a boomeranging effect in the end, if we take for granted that the British colonial officials had genuine intentions originally. The tripartite division further consolidated by the unusual federalism (whereby one part was bigger than the other two

parts joined together) on the country in the 1954 colonial arrangements, engendered ethnic cleavages between the Northern Hausa/Fulani, Eastern Ibo, and Western Yoruba on one hand. On the other hand, the majority was pitched against the minority ethnic groups through British colonial policies which focused power on the three regions and undermined the concerns of the minority (S.O. Jaja, as cited in Mustafa, 2003), and thereby "strengthened these ethnic identities as interest groups fighting for political representation and power" (Ahmad, n-d, p.4-5; Cooper, 2002). The colonial government thus negated a potential atmosphere in which to develop a national consensus.

This existing ethnic bigotry nurtured by the colonial policies shaped the formation of political parties with the granting of franchise in 1951. Each of the three regions had a majority ethnic group which conferred demographic advantage on them, and therefore respectively constituted a political power base for the formation of political parties. The emergent political parties compromised the national agenda with their emphasis on regional and ethnic loyalty (Post, 1963, p. 395; Sklar, 1963, p. 474-475). The Action Group which evolved in 1948 from a Yoruba cultural movement upheld a Pan Yoruba nationalist agenda (Awolowo, 1968, p.48). The Northern Peoples' Congress (NPC) in the same vein was essentially Northern political party of Muslim Hausa Fulani ethnic group, with a restricted membership to Northern region descents. The National Council of Nigeria and Cameroons (NNCC, later the National Council of Nigerian Citizens) abandoned its original national ideology to reign as Ibo political party exclusively of Eastern regional interest. The deepening ethnic consciousness accordingly produced a scenario where the 'tribe' became the basis for electoral support rather than actors' activities as part of the political systems (Akinyemi, 1976, p.135; Post, 1963, p.395). In the context, support for a political party outside that of the community's amounted to repudiation. Even in the organization of the parties, ethnic bigotry was pronounced. In spite of the policy of open membership most of the political parties propagated, "the actual distribution of party strength and the composition of the local affiliates of each party were largely determined by ethnic or religious solidarity" (Sklar, 1963, p.474-475). As independence approached, ethno-regional agendas intensified. The major ethnic groups exploited their share size respectively to hold the nation to ransom. Some politicians such as Ahmadu Bello (leader of the NPC) and Obafemi Awolowo (leader of the AG) even went out of their ways respectively at various times to question the logicity of the Nigerian nation (Awolowo, 1968, p.48) and threatened secession when they could not get their way through in national political debates.¹

This preponderant ethnic consciousness, either in the politics of the regions, or on the national stage, exerted pressure on the minorities in their respective areas. They became apprehensive about their survival under the imminent independence dispensation. Hitherto, the coercive state apparatus of the British colonial regime limited minorities' agitations to the level of grumbling. Existentialist imperative in an anticipated independent country dominated by the major ethnic groups emboldened them more with the approach of independence.

In all the three regions of the country, minority fears became wide-spread, precipitating the publication of various charters of demands. Such included the demand for the creation of the Calabar-Ogoja-Rivers state in the East, and the Mid-West state in the West. Their counterparts in the Middle-Belt demanded the creation of a similar state as a sanctuary for the minorities in the North which they believed would guarantee their post-independence autonomy (Ahmad, n-d, p.3). They argued for constitutional safeguards as an alternative in pursuit of this objective. Through the medium of their newly founded political parties (United Middle Belt Congress (UMBC), the United Nigeria Independence Party (UNIP), the Borno Youth Movement (BYM), they demanded for the resolution of the problems of the minorities before independence, either by creating new states for them, or outrightly redrawing of the map of Nigeria to annul their minority status. Therefore, the subject of state creation was a turbulent one (Akinyele, 1996, p.75-76)² throughout the constitutional conferences of the early 1950s.

Ironically, the majority groups who had united together with the minority groups to denounce the alleged atrocities of the British were rather ambivalent to these demands, where they did not outrightly negated them. While the North rejected the idea in totality, the AG and NNC acclaimed support for it was a matter of convenience (Rotchild, p.40; Akinyele, p.189). The British ultimately convoked the Willik Commission in 1957 to study and make viable recommendations that would protect the minorities, and strengthen their confidence in the soon to be independent Nigerian state. Specifically, the commission had the following terms of reference:

- 1) To ascertain the facts about the fears of minorities in any part of Nigeria and to propose means of allaying those fears whether well or ill founded.
- 2) To advise what safeguards should be included for this purpose in the constitution of Nigeria.
- 3) If, but only if, no other solution seems to the commission to meet the case, then as a last resort to make

detailed recommendations for the creation of one or more new states and in that case:

- a) to specify the precise area to be included in such a state or states;
- b) to recommend the governmental and administrative structure most appropriate for it.
- c) to assess whether any state recommended would be viable from an economic and administrative point of view and what the effect of its creation would be on the regions from which it would be created and on the federation. 4) To report its findings and recommendations to the Secretary of States for the Colonies (Nigeria, 1958, p.A2).

Recommendations of the Commission

The Commission noted in its report, among others, that there were ". . . genuine fears and the future was regarded with real apprehension" but repudiated the demands for state creation on two grounds. Firstly the potentially divisive character of state creation and second its cost and associated miscellaneous implications. It suggested instead, a "Bill of Rights" modelled after the European Convention on Human Rights to be included in the independence constitution as a way of promoting national integration and guaranteeing minority rights (Willink Commission Report, p.88).

The Commission also made other recommendations towards allaying the fears of the minority groups. For instance, informed by the development where some regional governments, allegedly abuse their control over the law enforcement agents (NAI/CE/W3 B, 20 February, 1958) it proposed the establishment of a federally controlled police force. Yet other recommendations included equal sharing of financial responsibilities between the regional and federal governments; the setting up of a council to monitor the economic and social development in minorities' areas; appointment of candidates from minority areas to government agencies whenever opportunities are available, among others (Nigeria, 1958, p.88-100; Ibhawoh, 2007, p.165).

From the beginning, the Willink Commission doubted the potency of a constitutionally backed bill in addressing the challenge of minorities' fears of oppression, because it considered the issue to be determined more by the character of the ruling class. Yet in its wisdom, the bill of rights would "provide a standard to which appeal may be made by those whose rights are infringed" (Willink Report, 1958, p.98).

Although the inclusion of a bill of rights in the constitution achieved consensus among the political parties and interest groups,

the proposal not to create minority states polarized them. The AG and supporters who wanted insulating enclaves for the minorities from the 'bullying' pressure of the dominant groups were disappointed, and accordingly vituperated the Willink Commission (West Africa, 23 August, 1958, p.795; West Africa, August 30, 1958, p.831& 818). But because the NPC and the NNPC believed that the creation of more states could fragment their power bases, they applauded the recommendation against it.

At the 1958 London Conference where the Willink Commission Report came up for debate, the issue of state creation was most contentious. The AG that had insisted had to abandon its support for the creation of more states for the minorities when the issue threatened to impede independence in 1960 (Nigeria, 1958). The issue of state creation therefore rested till after independence. Two issues require our critical attention here from the above analysis, before we proceed. First is the AG compromise at the 1958 London Conference, which, from the perspective of the minority groups and supporters, amounted to an act of betrayal. The second is the logic for repudiating state creation by the Commission.

Compromise of the Nationalist Elite

The Nigerian nationalist elite have variously been criticized, severely, for the compromises they made on the eve of independence (Johnson-Odim & Mba, 1997, p.111). This has given rise to the notion in some existing narratives that the process of independence was rash and stampeded without adequate preparations. From my perspective, the action of the AG was an appropriate expedient political remedy to a dire exigency. In all practical purpose, the party was only pragmatic in "seeking first the political kingdom" in the context of the illegitimacies upon which the British imperial order was allegedly founded. But how that political kingdom was eventually managed when it came, is a different subject all together. There was no guarantee that delay in independence would transform the primary objective of exploitation of the colonial project into benign paternalism. Except if we have accepted the altruistic motive of imperialism, which is hardly true. Foreign domination, no matter how benign, is an albatross, and deserves the use of every means to abolish. Compromise, within this context, on critical examination, was a decisive political instrument appropriated to contend with the exigency of anti-colonial campaign. Anti-compromise arguments from this perspective tend to regenerate the debate about the actual character and intention of colonialism project. A critical appraisal of the post WW II processes in colonial Nigeria would reveal that constitutional concessions were grudgingly

given out of nationalist pressure rather than colonial magnanimity (African Heritage, October, 15, 2012). In the circumstance, any excuse, however feeble, would have been 'legitimate' enough to deny independence to Nigeria left to the British. The threat by the colonial Secretary at the 1958 London Conference to withhold independence arising from disagreements over the protection of social and minority rights (Ojiako, 1981, p.29) was not an empty one. Neither was it an altruistic desire for a united Nigeria. Nationalist's obstinacy in the context would have amounted to unproductive brinkmanship. Their subsequent compromise apparently pulled the carpet under the feet of imperialism - a feat for which, to me, they deserve encomiums rather than denigration.

Moreover, compromise was a realistic strategy in the hands of the nationalists in their interactions with the colonial regime from the very beginning. Illustratively, while they rejected the ideas and institutions of empire in the early hours of colonialism, they did not always reject the standards of empire. The commitment to social and economic reordering of British imperial power remained an attraction. Irrespective of their vibrant anti-colonial agitations emphasizing the rights of Africans within the colonial order, most elites favoured some form of British overrule. Early compromise also manifested in the Western-educated elite alliance with local kings and chiefs, in spite of sometimes-acrimonious differences, to advance the political rights of Nigerians in the early days of colonial rule (Ibhawoh, 142-145). The maiden emphasis was not on the right to self-determination or complete independence as it became in the 1940s but on the right to political participation in colonial administration. Peculiar dynamics in each phase determined the nationalists' response in the anti-colonial struggle.

State Creation

On the second issue of state creation, the Willink Commission declined assent to this demand on the grounds of its generational character, inherently associated with the phenomenon in which creation of one state encourages demand for more; and, because the commission wasn't convinced that fragmentation necessarily tackles deprivation (Akinyemi, 1976). For taken this position, the Commission was greeted with criticisms (Okpu, 1977, p. 68; West Africa, 30 August 1958, p.831). Let us examine the issue more critically here. In contrast to common belief, the option of state creation was never really on the table for the Commission. The strong emphasis on, "if and only if" (Nigeria, 1958, A2), the introductory language of the clause on state creation in the Commission's terms of reference conveyed

an encoded message; which for good or for bad reasons, euphemistically oust the Commission's jurisdiction from considering state creation for any practical purpose. Again, the cynicisms expressed by the Secretary at inception, would have made a dissenting recommendation from the Commission a clear act of rebellion. The inclusion of the subject of state creation in its terms of reference, with hindsight, was obviously for political propaganda: to impress upon the minorities that 'their demands were being considered,' and ultimately buy time for the British imperial officials. Therefore I share in Mackintosh's position (Mackintosh, 1966, p. 34) that Sir Henry Willink and his team never had the mandate on the subject of state creation, but from a different perspective.

Hindsight evidence supports that the Willink Commission's rejection of state creation was objective. For example, in 1963 when the then civilian government repudiated the Commission's report and created the Mid West, a rancorous political atmosphere ensued with a looming threat of violence over allegations of ethnic biases in the distribution of posts, institutions and amenities (Daily Times, 14 April, 1965, p.1; 23 April 1965, p.1; 19 August 1965, p.5, Akinyemi, 1976, p.82). The first signpost to a potentially complicated scenario was the unsuccessful litigation against its creation by some ethnic groups within the new state. Perhaps the Willink Commission was right afterward.

From another dimension, the creation of Mid-West intensified political tension among the elite, even transcending pre-independence limits. The AG who hitherto supported the idea of state creation to protect minority rights paradoxically opposed the action (perhaps legitimately) because of its alleged partisanship aimed to dismantle the political base of the party (Alapiki, p. 56). In contrast, the NPC who jointly controlled the Federal Government that created the Mid-West with the NNC, bitterly resisted minorities' demands for the creation of the Middle Belt and Calabar-Ogoja-River states respectively in their regions; thereby denying them the right to fair representation for which the North threatened to secede in 1953 (HOR Debates, 3rd Session, 1962). Post independence experience saw state creation perfected into a cudgel in the hands of those in control of Federal might to haunt opposition - perhaps in a dimension Sir Henry Willink and his team never anticipated. Minorities' rights were rendered mere pawns in the grand chess board of the Nigeria dominant groups in the process. Flowing from the above, I consider the way and manner the Willink Commission has been attacked or sometimes vilified a bit too hard. This approach tends to blame the messenger for the message; or worst still, blaming the handkerchief for the tears. This conclusion is not a rejoinder to launder the image of colonial rule in Africa. Far from

it! Sordid as some of the colonial African historical experiences are, I'm convinced that each of the historical episodes should be properly contextualized. If the Willink Commission committed an act of omission or commission, it must be situated within the general context of the atrocities of colonialism. The Commission must not be identified, isolated and hanged in a simplistic manner that simply resuscitates the discredited Manichean paradigm of the colonizers versus colonized.

Minorities Rights in the Immediate Postcolonial Era

Pervasive definition of human rights remains one of the repercussions of imperial order in Africa (C. Ake in Aguda, 1989). The ideology of colonialism was incompatible with the application of full effects of rights which would have negated the essence of colonialism. Therefore, contradicting its proclaimed civilizing mission, colonialism denied the colonized people the real notion of natural and fundamental human rights given its tradition of invocation and revocation of rights. This malignant human rights tradition of the colonial period was carried into independence with the enactment of the 1960 constitution, and beyond (Wado, 1992, p. 23-25).

The colonial instrumentalist tradition of deployment of rights was acquired by the Nigerian ruling class first as a means of engagement with the colonial state whose laws, they frequently opposed for circumscribing the political rights of traditional rulers. But paradoxically they resisted the broadening of such rights in a manner that excluded them (Report on the Amalgamation of Southern and Northern Nigeria, and Administration, 1912-1919, in Joan Wheare, 1950, p.31-32). The closing period of colonialism saw the transformation of rights discourses from anti-colonial deployment to a means of validating nationalist agendas and, ultimately, negotiate their own positions in an emerging new order. Right stalk originally deployed to validate the colonial regime, proved to be an equally effective instrument with which Nigerian elites consolidated political power within the colonial state (Ibhawoh, 145). This was the context in which the independence constitution was born.

The Independence Constitution and Beyond

In line with the Willink Commission's recommendation, the independence constitution, taking a cue from the United Nations Declaration of Human Rights (UDHR) and the European Convention for the Protection of Human Rights and Fundamental Freedom, copiously provided among others, for the protection of fundamental human rights through the "Bill of Rights". Such rights included right to life, freedom from inhuman treatment, freedom from slavery and forced

labour and the right to personal liberty (Eze, 1988a; 1988b). Others are right to fair hearing, freedom of conscience and religion, freedom of expression, freedom of peaceful assembly and association, freedom of movement and residence; freedom from discrimination, and the right to family life (Nigeria, 1960).

A meticulous implementation of all these elaborate provisions would have automatically protected the rights of the minorities. But diverse categories of problems attended on the constitution. To begin with, the nationalists exhibited an attitude of "seek ye first the political kingdom" through their various political parties in political debates leading to independence as argued elsewhere in this paper. Thus in spite of their intra-class and inter-ethnic rivalries, they harmonized to demand for independence from Britain at the 1958 London conference. Impliedly, the political class was conscious of the reality that the Nigeria they were to inherit from the colonial regime was not a finished Project. Therefore they were expected to fix all unresolved national problems after independence, including minorities' rights guarantee. Unfortunately, the post-independence realities contradicted these expectations.

The nationalists who had promised to restore all the rights negated by the colonial dispensation adopted the same tactics and subversive compromises among themselves to deny citizens' rights. For instance, in spite of the constitution, the NPC controlled Northern region rejected the right of universal adult suffrage for women because it allegedly contradicted customary religious practices in a suspicious compromise with the two opposition parties, AG and NCNC, supposedly more liberal in their approaches. It betrayed the commitment of the ruling class in protecting the rights of individuals and minorities. Demographically, the Northern region had minorities who were not Muslims. But as it were, the rights of their women to vote were compromised without regard to their fundamental human rights to freely exercise their conscience. For a nation with a responsibility to protect human rights on one hand and in search of national integration on another, this kind of behaviour is inherently polarizing. If we excuse the pre-independence compromises as organized strategy to negotiate the British out of power, they lost their validity after independence.

The proviso imposed on the guarantee of "freedom from discrimination" illustrates the point on the inadequacy of the constitution in protecting the rights of individuals and minorities. The constitution unequivocally outlawed discrimination of any person on grounds of his or her ethnic group, place of origin, or political opinion. Yet it, defined discrimination to exempt "any law that imposed restriction on certain persons in 'special circumstances' that were 'reasonably

justifiable in a democratic society" (Ikhawoh, 2007). Such negative provisos, were not only nebulous, but portrayed the poverty of the constitution. That the bill excluded social and economic rights such as the right to education and work, which are basic obligations of any responsible government, added to its inadequacy - making it a mere statement of civil and political rights. Illustratively, the 'Bill of Rights in the constitution failed to address the problem of illiteracy required to enjoy associated rights such as freedom of expression, right to free press and the likes; just as it did not address the grinding poverty that made majority of Nigerians the real 'wretched of the earth'. Thus sharing Osita Eze' s view on the material poverty of the bill of rights Ake argued: Human Rights have to be much more than political correlate of commodity fetishism which is what they are in the western tradition. In that tradition, the rights are not only abstract they are also ascribed to abstract person. The rights are ascribed to the human being from whom all specific determination have (sic) been abstracted (Ake, 1989, in Aguda, p. 26).

Therefore, the post-colonial context was characterized by intense competition and conflicts over political and economic resources by the main ethno-regional blocs. As elsewhere in Africa, Nigerian citizens, irrespective of ethnic background, needed roads, access to health facilities, portable clean water, and access to education, gainful employment, to mention few of them. But the ruling elite provided no means to secure these either through development in industry or in agriculture, and could not even provide food for the population. Hegemonic consciousness of the regional groups, in the midst of scarce economic and political resources, means that the ethnic minorities were invariably exposed to diverse forms of discrimination and neglect (Mustapha, 2003).

Again, minorities Protection clauses were not justiciable - a variable that aggravated their plight. Provision of establishment of Minorities development agencies was vague on enforcement of compliance (Chapter III, Constitution of the Federal Republic of Nigeria, 1960). This implied that minorities could not hold a state official responsible in court in case of failed projects, or when such projects are not initiated at all. This problem is inherent to human rights laws. Although the universal fundamental human rights developed over a long historical period, the sordid events of the Second World War shaped their eventual outcome as codified in the UDHR. Consequently, the provisions were largely framed in the context of the international society. As Eric Posner (2014) observed:

The weaknesses that would go on to undermine human rights law were there from

the start. The universal declaration was not a treaty in the formal sense: no one at the time believed that it created legally binding obligations....

Evidently the human rights laws were framed in the context of the international environment. It would have therefore been imperative to transcend them in protecting the rights of the individuals and minorities in municipal laws. In this case the unique circumstances of each country would have been taken into account. Unfortunately this did not happen. In the case of Nigeria, such laws were received into the country through mere statutory declarations and pronouncements. No practical effort was made by the political elite to adapt them to local realities. This and related complexities entrenched the problem of enforcement of the bill of rights from the very beginning. Thus individual rights were violated with impunity, and could not be enforced in the face of some obnoxious colonial laws re-enacted into the Nigerian post independent legal framework. Such laws included the Official Secrets Act of 1962 and the Seditious Offences Act of 1963 tyrannically employed by the state.

In reality, the fundamental human rights enacted into the independence constitution, and thereafter, were given with one hand, and taken away with the other. A constitution that was practically spineless in protecting the rights of one man could not have protected those of a minority ethnic group.

Why the Independence and Succeeding Constitutions Failed

Some scholars have sought to explain the constitutional inadequacies of the independence period to the poor recruitment process of the African elites that negotiated it and afterward (Wado, 1992). It is argued that the Nigerian political class was a product of the imperial order and they imbibed the petty bourgeois values of their age. Human rights laws in the colonial legal regime merely served the purpose of legitimizing the colonial regime, invoking it when it was convenient, and revoking it if otherwise. The inherent private rights and individual freedom of action in libertarian traditions of the English common law and the system of justice extended to the colony were denied Africans - a dispensation that frequently provoked debates of diverse perspectives over rights and liberties between the Europeans and Africans. As argued above, this instrumentalist orientation of rights discourses was acquired by the African ruling class, first to challenge the colonial order and subsequently to legitimize their new positions as rulers of independent states with the same privileges and immunities

of former imperial officials. Rights discourses became appropriated not only as a counter force against the colonial state, but also for intra-class warfare and internal rivalries for political positions. The process compromised fundamental human rights, ipso facto minorities' rights.

Although the approach of blaming the colonial order for post-colonial ills is common in African historiography of early decades of independence, it does not often exhaust the story as it appears in this case. As the Willink Commission noted, ". . . a government determined to avoid democratic courses will find ways of violating them". By implication, the policy choice of any government is determined by the requisite political will. We are, therefore, convinced that, in spite of the alleged deficient framework of the constitution, an elite committed to the enforcement of human rights would find in moral force and an appeal to nationalism, enough propelling force. We share in Kalu Kelechi's (2004) opinion that the crises of human and specific minority rights stems out of procedural governance. Experience has shown that where competition over scarce means of existence did not entrenched ethnicity and its minority variant, it often aggravated it. Responsive and responsible ruling elite do not require a court order to offer food, provide electricity, good roads, and employment on equitable basis to make life meaningful for the entire citizenry without discrimination. The law only intervenes when there is default. In order of importance therefore, moral force precedes the law.

It is conceded that the colonial order did not offer the best conditions for leadership training. For this we have already excused the various compromises among the elite in the background to independence, to ensure an early exit of the illegal British colonial regime. If the colonial order was socially inadequate, a basis for an intellectual revolution existed, perhaps through a practical reconnection with the ideology of traditional African communal responsibility in the post colonial period. To begin with, the diction of "human rights" in the pre-independence debates among the nationalists was only a modern articulation of the ideals of traditional African extended family life founded on the ideology of communalism (Izuagie, & Sado, 2015, p.101-124; LeRoux 2000, p.43; Njoroge & G.A. Bennars, 1986, p.163; Tutu, 2000). Whereas "fundamental human right" was protected by the community in traditional African societies through the extended family system, in modern time, it was the duty of the state to protect it (Ondo Provincial Pioneer, June 16, 1956, p.2). If the rights of all the citizens of the state are protected, the rights of the minorities would have been protected.

Instead the elite were more conscious about their self-protection in a manner that made travesty of self-rule (Oyebola, 1976). They became more opportunistic in character and plagued by a vacuity of vision having procured independence. Thus in spite of the alleged over emphasis on civil and political rights of the independence constitution, it was not until the 1979 Constitution that the bill of rights was expanded to incorporate cultural and economic rights as well as collective ethnic group rights (Constitution of the Federal Republic of Nigeria, 1979). Even with this they are still not enforceable till date, almost fifty years after independence! - Latent basis for perpetual ethnic minorities' agitations.

The Nigerian ruling elite had the requisite consciousness to progressively lead their various people. They demonstrated this in a number ways, but we can illustrate with one or two examples due to time and space. On a closer scrutiny, for instance, the idea of a constitutional 'bill of rights', was not the original initiative of the Willink Commission. It was first the idea of the nationalists through the NCNC Freedom Charter, strongly influenced by Nnamdi Azikiwe (National Council of Nigeria and Camerouns (NCNC) 1948, p.2.; Ita, 1949, p.14). The intellectual fecundity abound in the Charter can only make pejorative allusions to the poor leadership opportunity offered by colonialism as subjective. To begin with, the Freedom Charter was drawn up in 1943, preceding, in the circumstance, the UDHR which was enacted in 1948. More importantly, as a statement of rights affirming a wide-range of political, economic, and social rights for all Nigerians, it became much more inclusive than the bill of rights enacted in the independence constitution (NCNC), Freedom Charter (Lagos: Sankey Press, 1948). In spite of this manifest intellectual sophistication of the nationalist elite, they yielded to crass opportunism!

Therefore, the various minorities were exposed during the political debates of the late 1950s till early independence. Eghosa Osaghae has therefore observed, perhaps with some exaggeration, that since independence: "the Nigerian Federation remains the [ethnic] majorities' paradise. . . as the numerical minorities continue to be dominated, even oppressed" (Osaghae, 1986, p.165). The role of colonialism in the scenario therefore need not be exaggerated. Some findings of the Willink Commission illustrated this point. For instance, while diverse minorities invoked the right to ethnic self-determination in their demands for state creation, the claims of exclusion upon which such demands were founded were either exaggerated or out-rightly falsified (Akinyemi, p.77-78; Akinyele 1990, p.224; Nigeria 1958, p.28; NAI/CA/11 in CE/W3F6). This clearly underlined the moral variable in the debate of minorities' rights.

Conclusion

The need to prevent the tyranny of the majority over minority informed the enactment of the bill of rights as recommended by the Willink Commission in the Nigerian independence constitution. But this was never enough as dictated by first the colonial framework and then, the character of the ruling class. The Nigerian political class was a product of the imperial order and they inbibed the petty bourgeois values of their age. Imperative to the resolution of the crisis of minority rights therefore is the dispensation of a just and proactive political order that could progressively undertake a credible process of constitutional amendment. In a socially fragile polity such as Nigeria, with virtual absence of national symbols, only good governance built on democratic values and moral authority can adequately address ethnic minority issues.

References

- The African Guardian p.1, (1988, August 5).
- African Heritage. (2012). History of constitutional development in Nigeria: An overview. Retrieved 20 May 2015, from <<http://shinaalimi.blogspot.com.ng/2012/10/history-of-constitutional-development.html>>.
- Aguda, T.A. (1989). Human rights and the right to development in Africa. Lagos: UIIA.
- Ahmad, A.A. (n-d). The effect of minority identity in Nigerian policy. Retrieved 4 May 2015, from <Ahmad.pdf>.
- Ajayi, J. F.A. (1980). Milestones in Nigeria history. London: Longman.
- Ake, C. (1981). The political economy of Africa. London: Longman Group.
- Akinyele, R.T. (1996). States creation in Nigeria: The Willink report in retrospect. African Studies Review, 39 (2), 71-94.
- Akinyemi, A. B. (1976). Ethnic politics: A non conformist view. In A.O. Sanda (Ed.). Ethnic relations in Nigeria (pp.135-145). Ibadan: The Caxton Press.
- Alapiki, H.E. (2005). State creation in Nigeria: Failed approaches to national integration and local autonomy. African Studies Review, 48 (3), 49-65.
- Awolowo, O. (1968). Thoughts on Nigerian constitution. Ibadan: Oxford University Press.
- Bach, D. (1997). Indigeneity, ethnicity and federalism. In L. Diamond, A. Kirk-Greene & O. Oyediran, (Eds.). Transition without end: Nigerian politics and civil society under Babangida (pp. 45-62). Boulder: Lynne Rienner.

- Bello-Imam, I.B. (1987). Problems of national integration in Nigeria. *The Indian Journal of Political Science*, 48 (2), 266-281.
- Cooper, F. (2002). *Africa since 1940: The past of the present*. Cambridge: Cambridge University Press.
- Eze, O. (1988a). *Human rights in Africa*. Lagos: Nigerian Law Publications.
- Eze, O. (1988b). Human rights issues and violations: The African experience. In George W. Shepherd, Jr. & Mark O.C. Anikpo (Eds.). *Emerging human rights* (pp. 98-115). New York: Greenwood Press.
- Federal Government of Nigeria. (1960). *Constitution of the federal republic of Nigeria*. Lagos: FGN. HOR Debates, 3rd Session, 1962: Cols 35-39.
- Ibhawoh, B. (2007). *Imperialism and human rights: Colonial discourses of rights and liberties in African history*. New York: SUNY Press.
- Ita, E. (1949). *The freedom charter and Richard's constitution in the light of the universal declaration of human rights*. Calabar: W API Press.
- Izuagie, L. & Sado, A.A. (2015). Communalism in pan Africanism: A retrospect. *Journal of African Union Studies (JoAUS)*, 4 (2), 101-124.
- Jaja, S.O. (2003). Nigeria-political & constitutional development since independence. In A.R. Mustapha (Ed.). *Ethnic minority groups in Nigeria: Current situation and major problems*. : Commission on Human Rights, Sub-Commission on Promotion and Protection of Human Rights Working Group on Minorities Ninth Session 12-16 May.
- Johnson-Odim & Mba, N.E. (1997). *For women and the nation: Fumilayo Ransome-Kuti of Nigeria*. Champaign: University of Illinois Press.
- Mackintosh, J.P. (1966). *The Nigerian government and politics*. London: Allen and Urwin.
- NAI/CE/W3 B, Record of daily proceedings of minorities commission, Jos, 20 February, 1958.
- National Council of Nigeria and Cameroun (NCNC), (1948). *Freedom charter*. Lagos: Sankey Press.
- Nigeria, (1958a). *Report of the resumed Nigerian constitutional conference*. London: H.M.S.O. Cmd. 569.
- Nigeria, (1958b). *Report of the commission appointed to enquire into the fears of minorities and the means of allaying them*. London: H.M.S.O. Cmd 569.
- Nnoli, O. (1980). *Ethnic politics in Nigeria*. Enugu: Fourth Dimension Publishers.

- Nwabueze, B. (1982). *A constitutional history of Nigeria*. New York: Longman.
- Ojiako, J.O. (1981). *Nigeria yesterday, today and ?*. Onitsha: Africana Educational Publishers Nig. Ltd.
- Ondo Provincial Pioneer, June 16, 1956.
- Osaghae, E. (1986). Do ethnic minorities still exist in Nigeria? *Journal of Commonwealth and Comparative Politics*, 24 (2), 165-173.
- Oshintokun, J. (1979). The historical background of Nigerian federalism. In A. B. Akinyemi, P. D. Cole, & W. Ofonagoro (Eds). *Readings in Federalism*. Lagos: NIIA.
- Oyebola, A. (1976). *Blackman's dilemma*. Lagos: Board Publications.
- Post, K. (1963). *The Nigerian federal elections 1959*. Oxford: University Press.
- Report on the amalgamation of southern and northern Nigeria and administration, 1912-1919. London: H.M.S.O., 1920) quoted in Joan Wheare, (1950). *The Nigerian legislative council*. London: Faber and Faber, pp.31-32.
- Rodney, W. (1972). *How Europe under-developed Africa*. London: Bogle-L'Overture Publications.
- Rotchild, D. S. (1954). Safeguarding Nigeria's minorities. *Duquisne Review*, 8, 35-51.
- Sklar, S.L. (1963). Nigerian politics: The ordeal of Chief Obafemi Awlowo. In G. Carter (Ed.), *Politics in Africa*. New York: Harcourt Brace and World.
- The Willink commission report. Retrieved 20 May 2016, from the Adaka Boro Centre -<<http://www.adakaboro.org>>.
- Tutu, D. (2000). *No future without forgiveness*. New York: Doubleday.
- United Nations Regional Information Centre for Western Europe. History of the universal declaration of human rights. Retrieved 20 May 2016 from < <http://www.humanrightseducation.info/hr-materials/the-universal-declaration-of-human-rights/220.html>>.
- Wado, O.G. (1992). African reparations and international law. A paper presented at the 18th Annual conference of Nigerian Society of International Affairs, NIPSS, Kuru, 23-25, November, 1992.
- West Africa, 23 August, 1958.
- West Africa, 30 August, 1958.