THE FEDERAL CONSTITUTION, NATIONAL- ETHNIC MINORITY GROUPS AND THE CREATION OF STATES: THE POST–COLONIAL NIGERIAN EXPERIENCE

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Abstract: Critics will retort that there are well over 400 ethno-linguistic groups in Nigeria and each of them cannot have their own state! This is acknowledged and is not an altogether unfounded claim. It, however, underestimates inter-communal and inter-ethnic relations which in Nigeria is generally cordial. Several states in the country are strictly speaking not entirely homogenous ethnically but are composed of several minority groups living together in harmony. Furthermore, there are criteria which ethnic groups agitating for states within Nigeria must meet. Political negotiations, rallies, campaigns and the like all play a part in the realization of the legitimate aspirations of ethnic minorities within a constitutional democracy. Undoubtedly, the operation of Federal Republican Constitution and the creation of states continues to attract constructive criticism. Thus, it has been argued against Nigeria’s Presidential Federalism that this type of republican constitutionalism continues to sustain and perpetuate the status of the predominant tribes more powerfully than would have occurred in a unitary system.

1. Introduction

This article attempts a brief overview of the Federal Constitution of Nigeria and the creation of States. It starts by noting the multiplication of states since Independence from the United Kingdom in 1960. Secondly the concept of ethnic minorities is defined, constitutionalism, Federalism, the rule of law, citizenship and fundamental human rights are also treated one after the other. These principles are primarily applied to the question of ethnic minorities in Nigeria. In conclusion, it is noted that efforts are being made by the Constitution to address ethnic minority issues, but more can be done.

It is estimated that in Nigeria there are about 160 million people, this makes it the most populated country in Africa. Since the attainment of Independence from the United Kingdom in 1960, it has passed through 6 constitutional procedures that have

This article therefore, affirms the view that the creation of states within the Federal Republic of Nigeria represents perhaps the most reasonable and feasible way forward for the national minorities that constitute a considerable part of Nigeria's teeming population to achieve their goals of self-determination and the full actualization of their group rights and other potentials as ethnic groups, such as the expression of their socio-cultural identities. It thus not surprising to find that the 1999 Constitution of the Nigerian Federation gives cognisance to the multi-state super structure of the country by providing that there shall be thirty-six states, apart from the Federal Capital Territory. Not only this, but the constitution also provides that there shall be seven hundred and sixty-eight local government areas. These provisions it is postulated are in part to meet the aspirations of the many national minorities that make up the Nigerian population.

As if to underscore the significance of this topic, at a recently concluded National Conference Committee on Political Restructuring and Forms of Government (CONFAB) held in Nigeria in 2014, it was advised that an additional 18 States should be created notwithstanding the 36 already recognized by the Constitution. If this is implemented as suggested, it would bring the number of states to 54. Indeed, contrary to the conclusions of the Willink Commission of Enquiry into the fears of Minority Ethnic Groups and Ways of Allaying them, set up at the twilight of British colonial rule in Nigeria, which had discouraged the creation of more regions or states, post –colonial Nigeria has had to come to terms with the question of national minorities by sub-dividing the administrative units from three prior to independence to thirty six barely a generation later.

Thus the constitutional significance of this issue is undisputed. Indeed, the constitutional development of states within Nigeria is so well documented as to become a trite narrative. For instance, in the case of Attorney General Imo State v.

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2 Constitution of the Federal Republic of Nigeria Cap1 part 1 sections 3, 4 and 6
4 Cmnd 505, 1958
Attorney General Rivers State.\(^5\) It was pointed out that: "Nigeria became an independent sovereign state by virtue of Nigeria (Constitution) Order in Council 190 No. 1652, Legal Notice 159 of 1960. A new region was excised from the Western Region. This was the former Mid-Western Region.

Throughout all this period, except for minor adjustments of boundaries, where small areas were excised from some regions, the original boundaries, which were formerly provinces, and later divisions remained unaltered...In January 1966, Military Administration took over the Government of Nigeria. By virtue of the States (Creation and Transitional Provisions) Decree No14 of 1967, the Federation of Nigeria was divided into twelve States viz. six states out of the former Northern Region, three States out of the former Eastern Region, Western and Mid-Western Regions remained unaltered and Lagos remained the capital. In 1976, by Decree No.12, the Federation was further divided into 19 States by virtue of States (Creation of States and Transitional Provisions) Decree 1976."\(^6\)

But having noted the historic escalation of new states in Nigeria, it is still of pertinence to attempt a jurisprudential exposition on the paramount importance of this topic and to interject that in the evolution of ethnic minority rights within Nigeria certain constitutional principles are intertwined with the creation of states narrative.

This is what the author intends to do, initially by attempting a definition of ethnic minority groups, this would be used to ground and then engage in the constitutional development of ethnic minority rights including provisions for the creation of states in the Nigerian polity. Other relevant provisions catering for ethnic minority rights in the constitutional order most especially with regards to the 1999 Constitutions would be brought into view to further determine how the rights of ethnic minority groups are being realized. Through this it would be argued that it is as citizens of the Federal Republic of Nigeria that ethnic group rights especially those most dear- the creation of states is being achieved.

2. National or Ethnic Minority Group?\(^7\)

\(^5\) (1983) 2 SCNLR 108; (1985) 6NCLR 117
\(^6\) K. Mowoe, Constitutional Law in Nigeria 2008 (Lagos: Malt House Press) p53
\(^7\) Rehman J, International Human Rights Law 2010 at p435
Nigeria is composed of many nations and tribes and sometimes definitions cultivated in Western legal discourse may not always fully encapsulate the unique dimensions of this topic. Hence, the felt need to look at this topic employing “national” and “ethnic” interchangeably in this article. Nonetheless, it has been urged that “national minorities” have an additional magnitude to that of ethnic minorities; national consciousness; group solidarity, often linked to a political movement for a measure of autonomy; or even total self-government. However, the definition of minority in the Council of Europe’s jurisprudence indicates that the two terms are more or less stating the same thing, for there is not one reference made to an extra category that would identify “national minorities” as a special sub category of “ethnic, religious, or linguistic minorities.”

Consequently the concepts of national, ethnic and or linguistic minority will be used as equivalents especially in the Nigerian situation as would become apparent in the course of this narrative. Yet, having traversed thus far there is no satisfactory definition of ethnic or national minorities. It is usually seen classified generally with “Minority Group”. This was the position of the UN Special Rapporteur to the effect that a minority group “is one that is numerically inferior to the rest of the population of a state in a non-dominant position, whose members being nationals of the State possess ethnic, religious or linguistic characteristics differing from those of the rest of the population and show, if only implicitly, a sense of solidarity directed towards preserving their culture, traditions, religion or language.”

However this definition is fraught with problems too numerous to delve into. Firstly it does not tackle head on the definition of national minorities or ethnic minority groups but sees them as belonging to the collective known as “minority group”. Other commentators opposing Capotorti’s description urge that minorities are undermined not so much by their weakness in numbers, but by their exclusion from political power. Some hold that a minority ‘is any racial, tribal, linguistic, religious, caste or nationality group within a nation state and which is not in control of the

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8 ibid
9 ibid p6
10 F. Capotorti, Special Rapporteur, Study on the Rights of Persons Belonging to Ethnic, Religious and Linguistic Minorities. UN Sales No.E 78. XIV.2, 1991, 96 para.568; For more discussion on minority rights see Dinstein, Collective Human Rights of Peoples and Minorities (1976) 25 ICLQ 102 at p112; see also Article 27 of the International Covenant on Civil and Political Rights 1966
political machinery of the state’. Precedence for this view was found in Apartheid South Africa, and the ongoing discord between the Hutu and Tutsi Tribes in Rwanda and Burundi lends further credence to this position.

Capotorti’s perspective of the numerical weakness of the minority group in comparison with the rest of the population would face problems in multi-minority ethnic societies like Nigeria where no single group forms an ascertainable majority\(^{12}\) the Hausa–Fulani dominating in the North, the Yoruba in the West and the Ibo in the East-这些 are the predominant ethnic groups forming over seventy percent of the population. Yet, there are other ethno-linguistic groups though not predominating are considerable in their own right and they include the Kanuri, Ibibio, Tiv, Efik, Edo, Ijaw and Nupe among others. Then there are other smaller tribes or ethnic groups made up of more than one million each. About 400 native Nigerian languages have been identified. The most widely used languages, that of the majority tribes each have several distinct regional dialects and in some areas like the Jos plateau and the surrounding areas of central Nigeria or the Middle Belt there are hundreds of small groups consisting of wide linguistic divergences existing across short distances\(^ {13}\).

With this unique combination of peoples, tribes, linguistic groups and races it is difficult to find an adequate legal definition of ethnic or national minority group that would fully fit the Nigerian terrain. It would be feasible to conjecture that in this context any definition that would attempt to define ethnic or national minority groups without taking into view the linguistic, racial and other variables of the Nigerian environment would fail to accurately appreciate the question and would therefore fall short in capturing the gravity of the ethnic minority problem as it pertains to it.

What is significant in my view is the suggestion that the ethnic minority group consider themselves citizens of a country or nation and therein they wish to preserve their social, cultural and to some extent their political identity. This then brings into play the relevant features of the constitutional - legal regime in Nigeria in order to fully engage the extent to which ethnic group rights are catered for. The strength of Capotorti’s definition is that ethnic minorities are seen as nationals or citizens of a

\(^ {11}\) Professot Palley- Constitutional Law and Minorities (Minority Rights Group, 1978) p3 as in Rehman fn 7

\(^ {12}\) Rehman fn 7 at p433

\(^ {13}\) http://www.nigerianembassy.ru./nigerian-embassy-moscow?eml.
country. Hence in Nigeria it is only nationals that qualify to be recognized ethnic minorities. It should be noted that under the tenets of international law states are only responsible for promoting the collective rights of minority groups inside their own territories.  

3. Constitutionalism and The Rule of Law.

The preferred option for Nigeria’s national minorities has been to agitate for the creation of states within Nigeria through the legal and constitutional means as opposed to secession. However there have been revolutions and uprisings in bids to break away from the Federal Republic. From 1967-1970, the Eastern Region attempted to secede from the federation as Biafra. In the case of Isaac Boro and Others v. The Federal Republic of Nigeria 3 men were found guilty of treason in that they levied war against the Federal Military Government in order to break away from Nigeria and form the Delta Peoples Republic. There had been civil uprisings among the Tiv peoples of central Nigeria covering nearly four decades leading to 1960s -in 1929, 1939, 1945, 1948, 1960 and 1964, the Government of Nigeria had to suppress them all through the use of armed force. In spite of these struggles, the majority of Nigeria’s minority ethnic groups have clamoured for their own states within Nigeria through the frame work of the rule of law and constitutional means.

In the Canadian case of In Ref: The Quebec Secession, it was urged with regards to the rule of law that it is supreme over the acts of both government and private persons and it "requires the creation and maintenance of an actual order of positive laws which preserves and embodies the more general principle of normative order." The exercise of all public power must find its ultimate source in a legal rule in other words the relationship between the state and the individual must be governed

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14 See Rehman fn 7 G. Gilbert, The Council of Europe and Minority Human Rights, Human Rights Quarterly
15 See the Canadian case of; In Ref;Re the Secession of Quebec [1998] DLR
17 (1966) SC 377;; 1966 NMLR
18 See Chap 1 Part 1 section 1(2) CFRN 1999 Nigeria and any part thereof can only be governed in accordance with the provisions of the Constitution in force
19 Tamuno fn 16 p576
by law.\textsuperscript{21} The essence of constitutionalism in Nigeria is covered by Chapter I, part 1 section 1 of the 1999 Constitution to the effect that it is the supreme law and its provisions having binding force throughout the land, the government and people are subject to its provisions and any law that conflicts with it, is to the extent of that inconsistency void and of no effect. The Constitutionalism principle therefore requires that all government action comply with the constitution.

The rule of law principle demands that all government action comply with the law, including the constitution\textsuperscript{22}. Similar views were held in the Nigerian case of \textit{Fawehinmi v. Abacha and others} \textsuperscript{23} were the supremacy of the constitution was affirmed. In \textit{Rabiu v. The State} it was emphasized: it is the duty of this court to bear constantly in mind the fact that the present constitution has been proclaimed the supreme law of the land;...that it was made, enacted and given to themselves by the people of the federal republic of Nigeria constituent assembly assembled, for which reason, and because it is autochthonous, it of necessity has superiority to and over and above any other constitution ever devised for the governance of this country.\textsuperscript{24}

In tying this all together it was observed in Adegbenro v. Attorney General of the Federation stated;\textsuperscript{25} Ours is a constitutional democracy. It is of the essence of democracy that all its members are imbued with the spirit of tolerance, compromise and restraint. Those in power are willing to respect the fundamental rights of everyone including the minority, and the minority will not be over-obstructive towards the majority. Both sides will observe the principle as accepted principles in a democratic society.\textsuperscript{26} This argument should be linked with the earlier contention that the quest for the creation of states has largely been within the context of the Nigerian legal order.\textsuperscript{27}

\begin{footnotesize}
\begin{itemize}
\item \textsuperscript{21} IN Reference Re: Secession of Quebec at 387
\item \textsuperscript{22} ref Quebec p418 Thus the principle of constitutionalism in Canada is embodied in section 52(1) of the Constitution Act 1982 to the effect that the Constitution of Canada is the supreme law of Canada, and any law that is inconsistent with the provisions of the Constitution is to the extent of the inconsistency, of no force or effect"-the same under the Nigerian Constitution
\item \textsuperscript{23} S.C. 45/1997 [Supreme Court of Nigeria Decision]; Abacha and Others v Fawehinmi (2001) AHRLR 172 (NgSC 2000)
\item \textsuperscript{25} (1962) 1All NLR 431
\item \textsuperscript{26}Per Sir Adetokumbo Ademola CJN in Adegbenro v Attorney General of the Federation, Tafawa Balewa and Another (1962) 1All NLR 431 at 455
\item \textsuperscript{27} See page 3 above
\end{itemize}
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3. Nigeria’s Federal Republican Constitution and Ethnic Minorities

For Nigeria’s teeming ethnic minorities forced to co-habit with the majority and pre-dominant Hausa- Fulani, the Ibo and Yoruba tribes in consequence of British Colonial rule, they have had to inter-alia, agitate and contend for their rights and recognition as a people within the constitutional framework of a federal republic. Thus the preamble of the 1999 Constitution states inter-alia:

“We the people of the Federal Republic of Nigeria:
Having firmly and solemnly resolved:
To live in unity and harmony as one indivisible and indissoluble Sovereign Nation under God…” ²⁸

Apart from stating in no uncertain terms that Nigeria’s Federal Republican status is “indivisible” and “indissoluble” the preamble also states that it is the people of Nigeria that has made the “binding resolution” to live together and that the said republic shall be governed only in accord with the provisions of the constitution, which being supreme has binding force on all authorities and persons throughout Nigeria.²⁹

The 36 States structure has already been noted, but this partition of the country into that number of states is neither indestructible nor sacrosanct- states can be further added to the federation in compliance with the requirements of Part 1 Section 8 of the 1999 Constitution.³⁰ What this demonstrates is that through the workings of the constitutional democratic processes, ethnic minority groups are given the legitimate means of realizing some form of statehood within the boundaries of the territory of Nigeria. Apart from setting out the means for the creation of more states- Provisions in Part 1 section 7 advocates that in the exercise of their authority, local governments shall:

“Ensure, to the extent to which it may be reasonably justifiable...regard is paid to (i) The common interest of the community in the area, (ii) Traditional associations of the community...”³¹

²⁸ The preamble 1999 CFRN [Amended]
²⁹ See further Chap 1 part1 sections 1 (1)-(3), Sections 2-3
³⁰ CFRN1999 Section 8 (1); section 8(2) covers boundary adjustments of existing states
³¹ CFRN 1999 Part II Section 7 (2) (b)(i)(ii)
This diffusion of power from the central to the state level and then onwards to the local level means that the three-tier level of government as much as possible reaches all Nigerians, not just ethnic minorities but right down to the villages and hamlets! Hence, in the exercise of their powers at the local context, local authorities should do so giving due cognition to the interests of the communities and traditional associations: are two concepts which embody aspects of the communal nature of ethnic group dynamics.

4. Citizenship and Ethnic Minority Groups

The 1999 Constitution in force makes provisions for citizens and citizenship inter-alia in Chapter III and it is to the effect that persons born in Nigeria are citizens, persons too born outside Nigeria, either of whose parent is Nigerian, are also Nigerian citizens. This should be noted bearing in mind the definition of ethnic minority groups who are described inter-alia as citizens/nationals of countries. Thus, in the constitutional order the prerequisite for being recognized as belonging to an ethnic minority group is based on Nigerian Citizenship. Ethnic minority groups in this context apart from holding the unique features, identities, cultures, language and other paraphernalia of distinct minority ethnic groups or peoples must also be citizens of Nigeria. It should be pointed out that citizenship inter-alia is rooted in belonging “to a community indigenous Nigeria.”

This signifies the weight given to the various tribes and communities that make up the population irrespective of the majority or minority issue. Although nothing in the citizenship provisions prevents members of Nigeria’s national minorities living in the diaspora from exercising their group rights, but it is not just in the context of their Nigerian citizenship it is posited, as the constitution allows for dual citizenship. Freedom of movement is guaranteed to all citizens to reside in any place or state within Nigeria without fear of expulsion.


32 CFRN 1999 Cap III Section 25 (1)
33 CFRN 1999 Part III section 25 (1) (a)
Another part of the Nigerian Constitution that impacts the rights of ethnic minorities is covered by Chapter IV of the 1999 Constitution which deals with Fundamental Human Rights. Rights of minorities can be seen as both individual and group rights, and have been the subject of increasing international human rights protection recently especially the right of self-determination, a right that protects a group as a group entity in regard to their political participation, as well as their control over their economic, social and cultural activity as a collective.

It is a right that applies to ‘peoples’ in all states and can be exercised in many ways, with most exercises of the right these days being within the boundaries of a state. The creation of states within Nigeria in my view is one of those ways that ethnic minorities as groups have exercised their right to self-determination. Almost all national constitutional and legislative protections of human rights have been drafted to protect the rights of individuals. Similarly, the vast majority of human rights protected in international and regional treaties such as the right to life, freedom of expression and freedom of thought protect the rights of individual human beings. However conceptually human rights can be extended to protect the dignity of a group (or a people), their physical integrity, in addition to their civil, cultural, economic and social rights. It is therefore important to see fundamental rights as more than applicable to individuals. After all most societies accord an importance to communities, collectives and families, and human existence encompasses the communal dimension.

In a number of situations it is a group of individuals who are oppressed because of the fact that they belong to a group or tribe. For example, genocide is a crime against humanity premised on the necessity to protect a group of people from actions against the groups’ physical existence and not only to protect the individual’s right to life. Likewise, many indigenous groups have an identity that is premised on their being

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34 CFRN 1999 PART III Section 25 read as a whole and Part IV Section 41 (1)
36 See the decision of the Supreme Court of Canada In Reference Re: Secession of Quebec [1998] DLR 161 (4th) 385
37 The origins of the human rights tradition goes back to the recommendations of the Willink Commission, Cmd 505, 1958
38 Footnote 35 at p365 -366
a group rather than in them being a conglomeration of individuals\textsuperscript{39}. A lot of individual rights have the effect of protecting a group. For instance, freedom of assembly and the right of freedom of religion all allow groups to come together to express their faith and thoughts.

Of particular importance in fundamental rights discourse is section 42 of the Constitution which covers the right to be free from discrimination. It provides inter alia: That a citizen of Nigeria of a particular community, ethnic group, place of origin, sex, religion or political opinion shall not because of that reason be subjected either expressly or by the practical application of any law in force in Nigeria or any executive or administrative action of government, to disabilities or restrictions.

This, also supports the assertion that it is within the Nigerian federation and in accord with principles of legality and constitutionalism that ethnic minority groups would in most cases seek to express their group rights. The recognition and the enforcement of fundamental human rights is provided for by Chapter IV of the 1999 Constitution. Section 46 \textsuperscript{40} provides that any person who alleges that his fundamental rights have been breached or are likely to be breached in any State within Nigeria may then apply to the High Court in that state for redress. It has been suggested that such common law remedies which evolved for the enforcement of rights such as the Writ of Habeas Corpus among others are likely remedies open to the courts.

This author would go on to urge that in this context “persons” and “individuals” referred to in section 46 of the Constitution can also be applied to groups of people like ethnic minorities.\textsuperscript{42} This is borne out by the non-discrimination provision which holds inter alia that by virtue of belonging to an ethnic group or any community, that should not be the grounds for suffering detriment or disadvantage as a consequence of the operation of any law.\textsuperscript{43}

Another interesting aspect of Nigerian law is the incorporation of African Charter of Human and Peoples Rights\textsuperscript{44} as part of the laws of the Federal Republic-this inclusion goes a long way in strengthening the regional and international dimension of

\textsuperscript{39} ibid p366
\textsuperscript{40} CFRN 1999 SECTION 46 as a whole
\textsuperscript{41} B. Nwabueze, Constitutional Law of the Nigerian Republic 1964 (London: Butterworths) pp403-404
\textsuperscript{42} The Five Knights Case 3 How. St. Tr.1(K.B.1627)
\textsuperscript{43} Part Section.CFRN 1999
the human rights discourse in Nigeria. Indeed the country is signatory to a number of treaties and conventions\textsuperscript{45} which are enforceable provided they have been incorporated into law as required by the Constitution\textsuperscript{46}.

6. Federalism and the Creation of States

Partly to secure internal self-determination for the minorities throughout the country, the creation of more states has been championed. Political self-determination to each ethnic linguistic group has been seen by the proponents of this position as the only way to attain unity and harmony in the country as a consequence of its tribal and ethno-linguistic diversity by giving greater autonomy and power to the various ethnic and linguistic groups scattered across the federation.\textsuperscript{47}

The operation of a federal constitution in Nigerian from the early 1950’s however, has not had its criticisms. But due to the way it operates, federalism is supposed to curb the power wielded by the executive and legislature at the centre. State governments and legislatures are authorized by the constitution to exercise power in certain defined spheres thus reducing the ability of the majority ethnic groups to perpetually dominate minority ethnic groups as subsisted in the country until the state creation exercises alluded to at the beginning of this article.\textsuperscript{48}

Given too that secession or a confederal arrangements are incompatible with the Nigerian Constitution 1999\textsuperscript{49} federal republicanism continues to be the favoured choice of the framers of Nigeria’s Constitutions since 1963\textsuperscript{50}. The phenomenal creation of states within Nigeria it has already been suggested in the course of this article as the

\textsuperscript{44} The African Charter on Human and Peoples’ Rights (Ratification and Enforcement) Act Cap 10 Laws of the Federation of Nigeria 1990
\textsuperscript{46} Part II s.12 CFRN 1999
\textsuperscript{48} See Chap I Part II Section 4 CFRN 1999
\textsuperscript{50} Federalism was introduced in 1954 by the Macpherson Constitution, the 1963 Constitution made Nigeria a full republic within the British Commonwealth. The unitary constitutional experiment promulgated by Decree No.34 of 1966 by the military regime of Aguiyi Ironsi was short-lived being terminated by the counter-coup of July 1966 which reinstated the Federal structure by Decree No 59 of 1966- as in http://www.nigeriamasterweb.com/nmwpg1ironslegacy.html accessed 12/07/15
way national minorities express self-determination within Federal Nigeria. For at a meeting of African Heads of State in 1964, the Cairo Declaration was promulgated. Thereunder, African States agreed to maintain the territorial boundaries of the countries created by the European Colonial Powers.\footnote{AHG Resolution 16/1 Resolutions adopted by the First Ordinary Session of the Assembly of Heads of State and Government held in Cairo, Egypt, from 17 to 21 July 1964}

This principle is tied with in with the doctrine of Uti Possidetis. As the International Court of Justice observed: 'The Chamber cannot disregard the principle of uti possidetis juris, the application of which gives rise to this respect for intangibility of frontiers. It emphasizes the general scope of the principle in matters of decolonization and its exceptional importance for the African continent, including the two Parties to this case. Although this principle was invoked for the first time in Spanish America, it is not a rule pertaining solely to one specific system of international law. It is a principle of general scope, logically connected with the phenomenon of the obtaining of independence, wherever it occurs.

Its obvious purpose is to prevent the independence and stability of new States being endangered by fratricidal struggles provoked by the challenging of frontiers following the withdrawal of the administering power. The fact that the new African States have respected the territorial status quo which existed when they obtained independence must therefore be seen not as a mere practice but as the application in Africa of a rule of general scope which is firmly established in matters of decolonization.\footnote{Summary of the Summary of the Judgment of 22 December 1986 of the Case Concerning the Frontier Dispute (Burkina Faso/Republic of Mali) Judgment of 22 December 1986 http://www.icj-cij.org/docket/index.php?sum=359&p1=3&p2=3&case=69&p3=5 accessed on 09/07/2015. See further J.N.C. Hill, Nigeria since Independence forever fragile 2012 (Palgrave/ Macmillan: Basingtoke, Hampshire) p14}

Thus it behoves many African ethnic groups seeking self-determination to exercise this right post-colonial internally within the territorial boundaries of the states created by the former colonial powers.\footnote{Ibid, the summary judgment above expands further on this principle} This is one of the major reasons the creation of states is seen as one of the ways of granting a measure of self-determination to ethnic minority groups and thus enhance the unity of the country.\footnote{See further B.O Nwabueze footnote 41 at pp427-428} Other reasons include the need for new states is that ethnic groups as much as
possible occupy continuous and compact states inhabited as much as possible by a fairly homogenous community. But it has been emphasized this would be difficult to achieve in some parts of Nigeria due to the accumulation of many ethno-linguistic groups in some regions.

The Federal Republican status of Nigeria is clearly stressed throughout the 1999 Constitution.\textsuperscript{55} In Nigeria is clear that federalism is a political and legal response to underlying social and political realities.\textsuperscript{56} The principle of federalism recognizes the diversity of the component parts of the federation and the autonomy of state governments to develop their societies within their respective spheres of jurisdiction. The federal structure also facilitates democratic participation by distributing power to the government thought to be most suited to achieving the particular societal objective having regard to this diversity.

The principle of federalism facilitates the pursuit of collective goals by cultural and linguistic minorities which form the majority within a particular state. The Federal structure and the creation of states within Nigeria enables minorities to form to form numerical majorities and so exercise considerable powers at the state level as conferred by the constitution. In this way facilitating the promotion of their language and culture.\textsuperscript{57} The promotion of individual cultures and autonomy over local matters have all enhanced the appeal of Federalism in Nigeria.\textsuperscript{58}

\textbf{7. Conclusion}

The 1999 Constitution within its framework makes a bold attempt to accommodate national minorities and ethnic diversity. It does so under a presidential and federal republican constitutional order. It interlocks the rights of ethnic minorities with citizenship and in keeping with the fundamental human rights tradition since independence a bill of rights is entrenched therein with provisions made for the speedy determination of breaches of human rights. There is recognition of the 36 states structure and provision for the creation of more should the need arise-this

\textsuperscript{55} For instance Chap 1, Part I Section 2(1)
\textsuperscript{56} Nwabueze, B. O, Footnote 41 at 412
\textsuperscript{57} ibid 413
\textsuperscript{58} ibid414
mechanism is the best way to express internal self-determination by empowering national minorities with their own states within the polity.

This encourages the development of the interests of national minorities at the state and local levels and the enjoyment of fundamental human rights as well as the protection of ethnic minority and other collective rights at the national level. The fact that there are little or no cases brought before the courts with regards to national minorities in Nigeria does detract from the importance of this subject. Having reviewed some of the substantive legal provisions, this author’s position has been to uphold the view that the creation of states for minorities within the framework of a federal constitution remains the most effective way to empower national minorities. Fresh majorities and minorities are being created with the establishment of new states. Statism and the Federal character principle peculiar to Nigeria are just some of the questions that belie the attainment of vibrant rights of ethnic minority groups within Nigeria.

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