The National Question: Towards a new constitutional order

By

Chief Anthony Enahoro

PRESIDENT Olusegun Obasanjo was reported in the media to have stated that he is not opposed to a National Conference provided it is constructive and contributes to national solidarity. Our organisation, the Movement for National Reformation (MNR), reacted by publicly welcoming the president's statement as a positive contribution to the national debate on the expediency of a national conference in favour of which popular public demand has refused to go away or to abate, in spite of all efforts to misinterpret and undermine it.

Our discussion this afternoon can be reduced to a simple question: what do we expect a National Conference to produce? Before endeavouring to answer the question, I ask your indulgence to quote at some length from an address, which I gave seven months ago to the Steering Committee of the MNR, because it is at the very heart of our subject today.

I said them: "I invite you to reflect on the fact, which I suggest is abundantly clear, that one of the most challenging determinants of the crises on the international scene as well as on the domestic scene today, is ethnic diversity. The challenge of ethnic diversity - in some cases even strong sub-ethnic diversity within an integral ethnic group - is a major ingredient in crises in Africa and abroad today. Unfortunately, it is vigorously at work in Nigeria, hence we must recognise that stability, progress and the prospects of democracy and equitocracy in our country - indeed the very survival of Nigeria depends on positive resolution of our ethnic differences.

"I suggest that the solution to our crisis cannot be to ignore it or to pretend that the diversity does not exist or to expect it to disappear without attention and purposeful treatment. We must boldly acknowledge the existence of our diversity and seek equitocratic togetherness from it. How may we describe, or what may we call, this positive approach to our common existence? I would call it "constructive diversity." If our undoubted diversity can, by dialogue and common action, be made creative, positive and constructive instead of barren, negative and destructive, and if our nationalities can freely contribute their individual quota to our common treasure house of creativity, imagine our collective potential as one country. We could abolish poverty among our people and we could chart a course for the democratisation and modernisation of Nigeria.

"This is the challenge which the 21st Century imposes on us and on Nigeria's leaders. And this is the fundamental purpose of the National Conference, which we have urged for many years and which has now caught the imagination of the populace (and, we are delighted to note, the President himself). The cardinal rationale of a national conference, as I see it, would be to enable us come to terms with our diversity and turn it to our collective advantage. I repeat that this is what I would call "constructive diversity". 
"I firmly believe that the diversity among the nationalities of Nigeria can be reconciled to realize our dream of a voluntary Federal Union of Indigenous Peoples to build the greatest country in Africa and to promote perhaps the greatest internationality enterprise of the Black Race. This is our positive rationale for a national conference."

Where are we to begin this historic, awesome and inspiring task? The first undertaking, the take-off point, must be to produce a peoples' constitution through a national conference and a national referendum. And what should the new constitution espouse and contain? I invite you: let us apply our minds to some key issues and considerations in the new constitution-making enterprise.

The foundation of civil society is the compact or constitution made by the people as to the basis on which they agree to live together. It really does not matter much whether the compact is written as in the USA or unwritten as in the UK; what matters is that a compact should exist. A constitution necessarily reflects the experience, anxieties and aspirations of its makers, and the durability of a constitution is a function of the extent to which the people have been involved in its making.

Since independence on October 1st, 1960, we have had no fewer than six constitutional reviews and there is another in progress in respect of the 1999 constitution, which you will recall was a ghost constitution when it came into effect. Our constitutions have not, to date, endured not only because they were successively abrogated by military regimes but also because, among other reasons, they were not the handiwork of the people. The mechanical preamble of "we the people" cannot disguise the true identity of the originators of these constitutions. The constitutions have merely been the expression of the fears and aspirations of the authors and promoters, whether these were the colonial rulers, military dictators or ruling cliques.

Our movement insists that Nigeria needs a constitution that will endure, one that will reflect the aggregate aspirations and experiences of all the Nigerian people. We are of the view that such a constitution cannot be produced without the involvement of the people, hence the MNR has always stressed that this should be accomplished through the instrumentality of a National Conference composed of representatives of the peoples of Nigeria freely chosen by the people themselves for the purpose. Happily, the question today is no longer whether or if a National Conference will be held, but when, and what are the issues to which the conference should address itself? We may not know when, but I can at least take the opportunity of today's occasion to outline our views on some of the key issues and considerations for an enduring constitution for the country, which we suggest should now be called the "Union of Nigeria", at least to signify a break from the past.

THE NATIONALITIES

The failure of Nigeria so far may be attributed in great part to the perennial tensions and conflicts among its nationalities, resulting from mutual insecurity, poverty, jealousies and fears. Rather than manage primordial identities, which are our nationalities, positively, successive constitutions have studiously and dismissively ignored them. But as disillusionment with the Nigeria project has grown, it is to these very celebrated identities that the people have begun to look for refuge. Thus the nationalities that the colonial invaders thought they had buried have forced themselves back into our collective consciousness. No amount of blank repetitions of hollow appeals to unity can change those realities. The latest confirmation - and I suggest it is compelling evidence - of the validity of these postulations is the current vigorous campaigns by diverse ethnic groups that they should produce the successor to General Obasanjo as President of Nigeria. You must surely have noted that the issues in these campaigns is not the quality or competence or performance record or beliefs of General Obasanjo or his successor, but quite simply the place of origin of the successor. Arewa, the Middle Belt, Ndigbo, the South amalgam and others each wants General Obasanjo's successor or rival to come from their own ethnic group or areas whether or not he or she is the best available candidate for the post. It is thus obvious that whether or not the force of nationality identities within Nigeria can be contained, it can no longer be ignored. We in the MNR are of the view that unless a meaningful role for our nationalities is defined within the Nigerian body politic, the nationalities will define a role for
themselves, and the dimensions of that role may not be readily predictable or containable.

The MNR proposal is that any new constitution for Nigeria must recognise the nationalities that preceded the formation of Nigeria by British imperialists as the true partners and stakeholders in the Union of Nigeria. The present artificial, arbitrary and predominantly unviable states are a poor substitute for the natural, historic and established nationalities as a basis and base on which to build a strong and dynamic Nigerian federation.

The MNR position, which is informed by the experience of successful multi-nationality states like the United Kingdom and increasingly the European Union, as against unsuccessful ones like Yugoslavia, Czechoslovakia and the Soviet Union, is that the ancient identities that are God-given cannot, need not and should not be destroyed or wished away simply because we have acquired additional identities as "Nigerians" or "Africans." The two identities can and should live together and prosper together.

CONSTRUCTIVE DIVERSITY

Our quest for national unity has been conducted thus far at the expense of our diversity. This need not and indeed should not continue to be so. It is not necessary, nor is it sensible, that we should abandon our God-given millennial identities and heritage in order to be considered patriotic Nigerians. The new Constitution for Nigeria should therefore make it clear that citizenship of the Union of Nigeria is additional to membership of its component nationalities and not a replacement for those natural allegiances. In this way, we would fall into line with countries like the United Kingdom, where a man is not less British and loyal to Britain by reason of being English, Welsh, Scottish or Northern Irish.

To symbolise the new approach of managing rather than suppressing our diversity, the MNR recommends that a new Constitution for Nigeria should allow the Region to have its own flag in addition to the Union Flag. Again we can point to the example of the nations of Britain with her distinct and distinctive English, Welsh, Scottish and Irish flags, but who can also enthusiastically fly the Union Jack, which in fact combines the other flags. Similarly, the nations of Europe fly their national flags as Britons, French, Germans, Italians etc. alongside the distinctive European flag. We all know that in the USA, each state has its flag and the union has the famous Stars and Stripes. In Nigeria, all we need do is to provide that regional flags should also bear a common union emblem, to reinforce the message of our "unity in diversity."

LANGUAGES

The nearest that previous constitutions have come to recognition of our diversity is to provide for Hausa, Igbo and Yoruba to be companion official languages alongside English. This discrimination between nationalities on the sole basis of population is not acceptable to the rest of Nigeria and is not in the long term defensible other than by force of arms.

Some 12 years ago, in a speech at the University of Benin, I said: "All the languages of Nigeria have equal validity or if you please equal lack of validity, before the law and under the constitution. No linguistic group has the right - the moral or constitutional right - to impose its language on any other linguistic group in the country. One might even go further to say that no collection of linguistic groups have the collective right to impose their separate languages on the other linguistic groups in the country. Any attempt to impose any particular tribal languages or languages on the country is fraught with grave danger for the peaceful development of the Federation. Government should not confer on some Nigerian languages the potentiality of instruments of domination over other Nigerian groups. Over one billion people speak Chinese and nearly one billion people speak Hindi, yet it has never been suggested that these two mass languages should therefore be imposed on the
rest of world or that UNESCO should promote them as world languages in preference to English or Arabic." I have had no cause to change these views.

Consistent with the principle of equity between the nationalities, the MNR recommends that a new constitution should provide for English, as a neutral language, to be retained as the principal official language of Union institutions and the constitution should require all Union Government publications to be made in the English language and translated into indigenous languages. While at the union level, it can be fairly held that language is no more than a means of communication between the diverse nationalities, so that any language will do, it must be realised that at the level of the nationalities, language is a way of life in the long run and we cannot develop ourselves or earn the respect of others by building our life on another country's language.

In fact, we question whether meaningful in-depth development can take place in the long term other than on the basis of our own languages. Up till, now, education conducted in the English language has remained the privilege of the few rather than the right of the many. While English, French, German, Japanese and Korean children receive their education in the language that they speak and learn almost from the womb, our children are obliged to become linguists first before they can even begin the learning process. Our home grown literary industry is virtually still born, as few of our writers can attain the level of proficiency in the English language to effectively compete with those for whom English is their mother tongue.

Towards the revival and development of our indigenous languages, the MNR recommends that a new constitution for Nigeria should provide that at the level of the Regions, the indigenous languages should be used as the official language and for all government publications to be made basically in the indigenous languages, with the addition of English to facilitate countrywide and broader understanding.

NATIONAL FEDERAL STRUCTURE

The membership of the European Union stands at present at 15 nations. Each of the nations is a mature democracy with an enviable track record in leadership and governance. Nigeria, it has been said, is made up of more than 100 nations, none of which has any substantial experience in Western style democracy. Furthermore, the total record of leadership and governance in Nigeria has been nothing short of tragic.

It is these realities, combined with bitter experience over the four decades since independence, that have informed our view in MNR that the key to peace and progress in Nigeria is not the continuous search for an ethnic superman who can manipulate the country's existing constitutional structure but instead, to engineer a superstructure that can be effectively managed by the people's representatives.

Our original position, first argued in 1991, was that Nigeria should be structured into eight regions. Our thinking on this issue has broadened, taking account of the events which have since occurred in Nigeria and in the world at large in the context of peaceful co-existence between peoples of different races and ethnic groups. We now propose therefore that a new Constitution for Nigeria should reflect a Federation of Constituent Nationalities within which the nationalities should be grouped into Regions, and that each Region should itself be a federation of sub-nationalities or a federation of smaller nationalities. Where a region consists of a single nationality, as in Yorubaland or Igboland, its federating units should be its contiguous component sub-nationalities. Where a region consists of multiple nationalities as in the Middle Belt areas, its federating units will be the contiguous component nationalities. Under these proposals, a nationality or sub-nationality cannot form, or be part of, more than one Region. Under our proposals, the federating sub-nationalities of a mono-nationality region

http://www.nigerdeltacongress.com/narticles/national_question.htm
should be designated "provinces" and should have specified territorial powers greater than those of local government councils but less than those of a Region. The federating nationalities of a multi-nationality region should be designated "Associated Territories" and should each have (or they may choose to share with neighbouring nationalities) autonomy in a range of subjects such as chieftaincy, cultural affairs, primary education, language development.

On the basis of these principles and criteria, the MNR suggests that the starting number of regions, each of which should itself be a federation, should be 18, of which 12 will be mono-nationality regions, which should be: Ibibio Federation, Ijaw Federation, Igbo Federation, Urhobo Federation, Edo Federation, Yoruba Federation, Nupe Federation, Tiv Federation, Gbagyi Federation, Hausa Federation, Fulah Federation and Kanuri Federation.

The other six (6) of the Regions should be multi-nationality regions, as follows:

(i) A federation comprising minority nationalities in Cross River and Akwa Ibom states (i.e. Eket, Annang, Oron, Ibeno, Efik, Ejagham, Korop, Boki, Bakwarra, Yakurr, Yala).

(ii) A federation comprising the minority nationalities in Rivers and Bayelsa states (i.e. Ikwerre, Etchei, Ekpeeye, Engeni, Ogba, Eleme, Ndoni, Ogoni, and Andoni).

(iii) A federation comprising the minority nationalities in Delta State (i.e. Ika, Ndokwa, Warri, Isoko).

(iv) A federation comprising the minority nationalities in West Middle Belt, i.e. Zuru, Kambari, Bariba, Bussa, Karekare, Ngizim, Angamo, Bola, Funne, etc.

(v) A federation comprising the minority nationalities in Central Middle Belt, i.e.: (a) Ebira Group: Ebira, Uku, Ebira-Ugu, Ebira-Panda, Etuno-Igarra, Ebira Mozun, Bassa-Nge. (b) Igala Group (c) Upper Benue Group: Alago Eggon, Gwandara, Mada, Kakanda, Mighili, Bassa-Komu, Ninzom, Arum etc.

(vi) A federation comprising the minority nationalities in East Middle Belt, i.e. (a) Plateau Group: Ngas, Berom, Afezere Taroh, Goemai, Nmavo - Jukun, Amu, Pyem, Youn etc. (b) Taraba Group: Chamba, Jukun, Kuteb, Mambila, Kona, Kunni, Kaanab, Ndoro, Abakwa, Mumuye, Yububen, etc. (c) Savanna Group: Bura, Tangale - Waja, Bachama, Manghi, Kilba, Yungu, Mwanna, Bwazza Mbula, etc.

The underlying principle of the suggested structure is that all the nationalities, regardless of size, are autonomous federating units of equal value to the whole. In this spirit, the divide between the nationalities suggested to be Regions in their own right and those which are suggested should co-operate to form a Region, is to be clearly established by nothing more than pragmatism, having regard to the tasks, responsibilities and resources expected of a Region.

**FUNDAMENTAL RETHINKING**

A good constitution must be designed to cope with the dynamics of human relationships. It must have in-built shock absorbers, since the aspirations of nationalities are not static. To guard against our past experience of lurching from one constitutional crisis to another, the design of the new constitution must be flexible enough to accommodate new aspirations of nationalities and Regions without upsetting the balance of the whole structure and prospects for stability.

In the course of time, nationalities starting out as parts of a Region may wish to be Regions in their own right, having become
The MNR therefore proposes dual criteria for the creation or recognition of a Region, viz:

(i) **Adequate Economic Resources**, i.e. viability of the area concerned having regard to the scope of Regional powers and functions, which should correspond with the powers and functions of Regions under the 1951 Constitution; and

(ii) **Adequate Human Resources**, i.e. combined population of not less than one million people living within the area concerned.

These combined criteria underline our belief that neither population nor resources should be the sole determining factor as to which nationalities can by themselves constitute Regions.

**SECESSION**

Given our traumatic experience, I suggest that the following question is pertinent: should the constitution allow for the ultimate change of secession? In the past, this issue has been treated as a taboo topic but the absence of thought and debate on the matter is a poor substitute for judgement. Obasanjo has helpfully opened discussion on it in his book *This Animal Called Man*, wherein he stated that any future constitution of Nigeria must provide for a right of secession. This is but a recognition of the reality that, short of brute force, the only way that different nationalities can be kept together in the long term is by their will to stay together.

Our expectation is that in the new Union of Nigeria in which all nationalities are treated fairly, no nationality will have cause to want to secede. It is nevertheless prudent that provision should be made for this possibility, however remote it may seem at present. The peace and stability of the departing nationality, no less than the peace and stability of the surviving members of the Union, would require that a pre-agreed peaceful procedure should be followed. The procedure, which the MNR suggests is one that would ensure that the initiative has genuine popular support within the nationality concerned. This can be ascertained by a two-thirds majority vote of the legislature of the territory concerned as well as by a two-thirds majority vote in a referendum of the people of the territory concerned. The MNR also recommends that there should be a three-year interval between the initial formal proposal in the legislature concerned and the referendum of the people concerned. This is to allow adequate time for proper reflection, for the calming of nerves, and for alternatives and compromises to be considered and worked out.

However, since under our proposals the nationalities through their freely chosen representatives at a National Conference will have adopted the Union arrangements, it would not be unreasonable for the constitution to provide that a period of fifteen (15) years should elapse after the adoption of the Union arrangements before any new Region can be created or any democratic secession moves mature.

**REGIONALISM**

Striking the right balance between the local and the central organs of government is one of the keys to a successful federation. The tribulations of Nigeria can in large measure be traced to the steady accumulation of power and resources at the Centre producing, in the process, a winner-takes-all political philosophy. The MNR believes that we should move away from the practice of concurrent jurisdiction as this leads to unnecessary competition between the local and central organs of government. Instead, the underlying principle of a new constitution should be, putting it coarsely, that everything is residual and therefore for the Regions, except to the extent that a subject has been clearly assigned to the Union government. The new Constitution must therefore clearly and definitively set out the matters for which the Union is to be responsible. The government of a multi-nationality Region should stand in the same relation to its component associated territories as the
Union government does in relation to the Regions. Thus, as with the Union Government, the principle should be that only those matters, which necessarily have to be conducted at the Centre, should be managed there.

The MNR recommends that the new constitution should provide for each Region to have its own constitution in which the division of responsibilities between the Regional Government and the lower tier administrations will be spelt out. This is to ensure that subject to a set number of mandatory provisions, the Constitution of each nationality will reflect the particular experience, fears and aspirations of the people of that nationality within its own powers and jurisdiction.

UNION INSTITUTIONS

The underlying principle of any new constitution should be that the Centre belongs to all our nationalities, large and small. To avoid a situation where some nationalities see themselves as more belonging or more equal than others, the MNR recommends that the composition of key Union institutions like the Central Bank, the Supreme Court, the Civil Service Commission, the Auditor General's Office, the Accountant General's Office, etc should be organised in a way that will ensure that the interests of each Region will be effectively protected there. This requires collegiate offices in which each Region has a seat rather than singular uncompounded offices, which are merely required to take account of the so-called "federal character".

The MNR recommends that the new constitution should adopt the parliamentary system of government as a more cost effective and inclusive system of government better suited to our ethnic, sub-ethnic and ethical complexity. The MNR position is being published in The Case for Return to the Parliamentary System of Government, which I hope some of you will read.

The sheer size and resources of Nigeria make it inevitable that our country should have a major profile in international affairs, however undeserving we may be of it on other grounds. However, the size of the country equally means that the task of managing our domestic affairs is a full time occupation. This in our view buttresses the need to vest the duties of Head of State and Chief Executive in different persons. There may be some concern about such a division of responsibilities between two different persons, probably from two different areas, because of the risk of a power struggle between the two personalities. In our view, the scope for such conflict can be adequately contained if the constitution strictly defines the President's responsibilities. The constitution should, in our view, also ensure that the President is only indirectly elected so that he cannot claim a competitive mandate direct from the people. Our thinking is that the President, as father of the nation should be elected by an Electoral College consisting of the entire National and Regional legislatures in the country.

Consistent with the parliamentary system of government, the Prime Minister should be the leader of the majority party in Parliament. The MNR recommends a collegiate executive, again based on the parliamentary system of government, to guard against the over-personalisation of the executive power of the head of the Union government. Such an executive may be called the Council of Ministers and consist of one or two ministers from each Region. In this way, we can ensure that the interests and concerns of all the Regions are expressed and taken into account when the Union government formulates policy or takes action. With such a collegiate executive in place, it will be feasible for the office of Prime Minister to be rotated among the Regions so that all nationalities can feel a sense of belonging and of common ownership.

ALTHOUGH Nigeria has two legislative chambers at present at the national level, there is not any real qualitative difference between the two Houses. Rather than each House making a unique contribution to the representation of the people, the members of the House of Representatives and of the Senate have simply duplicated each other. It is against this background
that the MNR recommends that the Second Chamber should be restructured as a House of Nationalities, to serve as the voice of the nationalities that make up the Union of Nigeria. Each Nationality, regardless of its size, should have an equal number of memberships in the House of Nationalities who will be selected by their nationality legislature. The House of Representatives would be the voice of the people of Nigeria as a whole. This unique triangular arrangement would give a voice to all the partners in the Union - a voice to the Regions through the Council of Ministers, a voice to the Nationalities through the House of Nationalities, and a voice to the individual citizens through the House of Representatives.

One of the weaknesses of Nigeria's post-military democratic experience has been the lack of real representation. No sooner are legislators elected than many of them lose sight of their duty to faithfully represent their constituents. In our view, the best way to keep the legislators in touch with their constituents is to require them to renew their authority at more frequent intervals. For this reason, we recommend the shortest practicable term of office for members of the House of Representatives, say three years maximum. In future years, once a culture of representative politics has set in properly, the term of office can always be extended by amendments to the constitution. A longer term of office is appropriate for members of the House of Nationalities who are principally concerned with macro issues affecting their respective nationalities.

The law of diminishing returns applies to lawmakers as it does to other aspects of life, so that every additional member of the House of Assembly does not necessarily translate into an equivalent addition to the quality of legislation and deliberations. We therefore recommend that the new Constitution should provide for the smallest possible number of members for the assembly consistent with fair representation. This would encourage quality of selection, which should enhance the quality of deliberations. We would suggest no more than 240 members for the House of Representatives. The membership of the House of Nationalities should be dictated by the number of established nationalities.

**NATIONAL RESOURCES**

Ownership and exploitation of the country's natural resources have contributed a great deal to Nigeria's political problems, especially in the oil age. The MNR advocates that the strict legal ownership which rests with the oil producing nationalities needs to be balanced with the equitable interests that have come into being by virtue of our co-existence. As a means of addressing the issue of the diversity of interests in such resources, and with a view to ensuring that all interests, direct and indirect, are duly provided for, the MNR proposes that a distinction should be drawn between such resources, as follows: (a) resources on or under the land of a nationality, (b) resources in what may be considered a nationality's waters, and (c) resources in the country's international waters. In the first case, we would revert to the basic principle that the owner of land owns all that is on the land and beneath it. Any new constitution must not only recognise the exclusive claim of the nationality to those resources, but it must also provide for the owners of the land, whether individual, family or community, to receive fair compensation for their good fortune and to participate in the fruits of the exploration.

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