



## Constitution Building as a Panacea to Identity Conflicts in Africa: The Case of Nigeria

Dr Chidi M. Amaechi

Department of History and International Studies,  
University of Nigeria, Nsukka, 410001,  
Enugu State, Nigeria

Obinna U. Muoh

Department of History & International Studies,  
University of Nigeria, Nsukka, 410001,  
Enugu State, Nigeria

Doi: 10.1515/mjss-2017-0002

### Abstract

*Africa is rife with sectional discontents which metamorphose into protracted conflicts, civil wars, and terrorism. With forlorn hopes of survival in the system and without a say in the constitution building process, disgruntled groups easily cloak their political and socio-economic dissatisfaction with ethnicity, religious or similar identities in order to arouse group affection. At present, Nigeria is at the brink of disintegration as a result of this problem. The country has witnessed about six constitutional arrangements since independence. Yet, the clamour for a new constitution remains constant and, invariably, influenced the convening of the 2014 National Constitutional Conference in the country. Since constitution building provides a good opportunity for the citizens and groups to enshrine their wishes in the instrument of governance and thereby preventing the degeneration of grievances into conflict, questions have continued to arise. Does the constitution making process in Nigeria involve the people for whom the laws are meant for? Are the leaders mindful of the peace potentials of constitution building? This paper seeks to ascertain the extent to which the citizens were involved in the making of the previous constitutions in Nigeria. It projects the view that the failures of the past attempts and the prevalent identity conflicts in Nigeria are attributable to non-adherence to the basic principles of the indispensable people-oriented process of constitution building.*

**Keywords:** Constitution, Constitution-Building, Identity Conflicts, Africa, Nigeria.

### 1. Introduction

The attainment of an acceptable and durable constitution by most African countries remains a herculean task and such a gory situation contributes greatly towards the heightening of sectional insurrections. The situation has continued to greatly worsen the level of development and security in the continent. It is common for the political elites to dominate the entire political landscape and control the policy making structures in such ways that favour particular sections of their respective countries, apart from sustaining their usual sit-tight bids. The trend manifests vividly in the constitution-building processes. In Nigeria, the history of constitution making has witnessed several disorderly phases and processes, and is inseparable with the tortuous political history of the country. Nigeria, as it is today, remains a British colonial concoction which resulted from the 1914 amalgamation of the Colony and Protectorate of Southern Nigeria and the Protectorate of Northern Nigeria. Since then, the country has gone through several daunting political transformative phases.

More interestingly, and as if to rationalize the claim and activities of the successive claimants to power, each of the phases seems to have influenced the process and nature of the contemporaneous constitutions.

The first phase (from about 1914 to 1946) was a period of complete subordination, when the British government and its local officials completely held sway. This period witnessed the 1914, 1922 and 1946 constitutional arrangements. The second phase (1946 to independence) was marked by the opening of a little vent through which Nigerians gradually began to be involved in governance activities and it culminated in the attainment of independence. The period produced the 1951, 1954 and 1960 constitutions. The next phase (1960 to 1966) was the era of the First Republic which produced the 1963 Republican Constitution. The last phase (1966 to 1999) was predominantly marked by military absolutism. The 1979 and 1999 Constitutions were products of this phase and were designed in a way that suggests attempts at perpetuation of the military in the governance of the country. From the foregoing, it is obvious that since its inauguration, the Nigerian nation has had nine written constitutions. When compared with some of the countries that Nigeria's political leaders have been struggling to mimic, like the United States of America, this is not a mean record, though on the negative track. The more disturbing aspect of the situation is that throughout the country, from north to south and from east to west, calls for a new constitution and a better constitutional development process have continued to reverberate, as in the past. As the International IDEA (2001, p.12) observed,

*Expressed in different forms and with different mutations and areas of emphasis, one thing became clear. Nigerians want an inclusive, consultative and participatory process in which the composite parts of the whole, called Nigeria, can be examined as equals and partners in the process of nation-building and continued existence.*

A closer look at the origin and activities of the ethnic militias and the various identity conflicts in Nigeria reveals the role of bottled up grievances as a result of many years of deprivations and marginalization (Mbah and Nwangwu, 2014, 683). Today, the activities of groups like the Boko Haram religious sect and ethnic militias such as the OPC, MASSOB, IPOB and the numerous Niger Delta militants have not only heightened the level of mutual distrust and insecurity but have also been threatening the continued existence of the country. Whichever way one looks at the situation from, whether their grievances and demands are based on real or perceived deprivations and fears, some of the common denominators among these groups include the accusation of inadequate consultation and representation at the policy-making levels of governance as well as imposed constitutions whose provisions are skewed to deprive them of their rights both as humans and citizens of the country.

### 1.1 Research Questions and Method

From the foregoing, certain salient probes could be evoked. Could it be that those who are fortunate to be part of the leadership of the country and, by extension, the formulation of the constitutions are ignorant of the virtues of constitution-building or the indispensability of its people-oriented process? Is it not a historical fact that the previous constitutional 'experiments', from the colonial period, failed mainly because the people for whom the constitutions were meant to serve were not adequately carried along during the formulation stages? Without losing sight of the other hindrances, it is the position of this paper that until this missing link is taken care of, the attainment of an acceptable and durable constitution will largely remain elusive? It seeks to prove this by looking at the concepts of constitution-building and constitution-making and to probe the previous constitutional arrangements in order to identify the missing links and with a view to substantiating the perception that proper adherence to the precepts of constitution-building would greatly assist in removing the steam from the embers of the cancerous scourge of identity conflicts in Nigeria and Africa generally. Using the historical descriptive method, what follows is a critical analysis of relevant data obtained from archival documents, books, journal articles and periodicals.

## 2. Conceptual Clarifications

### 2.1 Constitution

Simply put, the Oxford Advanced Learners Dictionary of Contemporary English defines a constitution as a “System of government; laws and principles according to which a state is governed”. It has also been variously defined as “a supreme law of the land promulgated to exercise sovereignty” (HPCR International, 2007-2008) and as “a set or body of principles and rules determining the structure, powers and limitations of the government of the country as well as defining the rights and duties of the governed” (Ndoh, 1997, p.1). But beyond being a set of rules and laws regulating a society and government, or a mere social contract, a constitution should be an “expression of the general will of a nation, the reflection of its history, fears, concerns, aspirations, visions and, indeed, the soul of the nation” (International IDEA, 2001, pp.142-3). It is logical, therefore, to state that in a heterogeneous society like Nigeria, a constitution must capture the views of the majority without losing sight of the concerns of the minority and even the ideologically opposed groups before it can be seen as a single document ‘owned’ by the citizens. To achieve this, the active participation of the citizens in the making of the constitution and, more importantly, their consent to its provisions must not be usurped or spurious.

### 2.2 Constitution-Making

On its part, “constitution-making or constitutional engineering refers to the technical act of rendering a constitution” or, differently put, “the technical process of the drawing up or amending a constitution” (HPCR International, 2007-2008). It involves the process of mapping out and adoption of a suitable design which includes “the institutions for the making of decisions and the method of making decisions” (Ghai and Galli, 2006, p.9). In constitution-making, the importance of wide participation and deliberation cannot be over-emphasized, as the legitimacy of the end product – the constitution – largely depends on such attributes. In a democratic environment, for instance, “a well-designed process can in itself be an education in and for the deliberative and participatory politics that the constitution may call for” (Ghai and Galli, 2006, p.10). In other words, for a constitution to capture the wishes of the people or the ‘soul’ of the nation, its ‘making’, amendment and review must entail the creative engagement of academics, non-governmental organizations, the media, trade unions, youth groups and other mass organizations. This procedure centres on popular participation, national dialogue, transparency, widespread education and mobilization as well as the involvement of the people, their constituencies and communities at all levels of the constitution making process, all geared towards the re-structuring of the state. As well, the process must not be restricted to the urban-based elites or organizations.

The legitimacy of the process of its adoption determines the extent to which it is accepted and ratified by the citizens. It is doubtful that a constitution that has not been tested against the will of the people can reflect that will. The argument here is that if the people are involved in the making of the constitution, they can easily possess, pre-empt, defend and re-define or easily review it against attempts to subvert it. In other words, the quality of a constitution is neither determined by the sweetness of its provisions nor by the extent to which it is ‘cloned’ from what exists in the most developed countries of the world or from utopianism but by the extent to which it conforms with the wishes of the citizens at a particular period of time. In Nigeria, unfortunately, instead of this process-led and people-oriented ‘bottom-up’ approach to constitution making which conforms with modern political trends, the tradition has been a situation where the political elites, especially the urban-based ones, in the discredited ‘top-down’ manner, negotiate and, as Hart (2003, p.5) would say, “draft texts behind closed doors” and impose their decisions on the majority of the citizens without minding the conflict-carrying capacity of such undemocratic traditions.

### 2.3 Constitution-Building

According to Ghai and Galli (2006, p.9), constitution-building “refers to the process whereby a

political entity commits itself to the establishment and observance of a system of values and government". It is a rigorous process through which the state ensures that the constitution evolves strictly from a particular 'environment' and its citizens, both individually and collectively, at any point in time. Apart from involving longer or evolutionary processes, constitution-building requires painstaking interaction between the sovereign state and its representative/s on the one side and the citizens on the other. As a broader and lengthier notion of constitution-making, it has proved to be a crucial aspect of peacebuilding. It provides a solid basement for constitutionalism, trust in the state, and peaceful interaction among the constituent sections of the state and, by so doing, remains a missing link in the resolution of the numerous ongoing identity conflicts in the Nigeria and Africa generally.

With regard to its attributes, constitution-building involves a continuous process of socio-cultural and political socialization and interest articulation and aggregation which are woven into the national psyche through reviews and amendments of the constitution as the need arises. Its practice stretches over a long period of time and even as long as the state exists. The constitution of the United States of America comes to mind here. Inaugurated during the last quarter of the eighteenth century, the constitution has continued to exist and retain the approval of the different sections and classes of the citizens. According to Ghai and Galli (2006, p.9),

*Constitution-building in this sense is almost an evolutionary process of nurturing the text and facilitating the unfolding of its logic and dynamics. So, for example, a text whose birth is in some respects inauspicious, even contested, can in time stamp its imprint on society and weave its way into public favour, while a constitution proclaimed with great enthusiasm can run into difficulties, be ignored or even discarded.*

In Nigeria, for instance, the quota system that goes with the Federal Character principle was enshrined in the constitution in order to give a sense of belonging to the different ethnic and identity groups. At present, however, it is obvious that the inherent advantages are being greatly dwindled by its contradictory, divisive, and pro-mediocrity tendencies. Gaventa (2002, p.9) observed that,

*Whereas the national Constitution under the new democracy in Nigeria proclaims that 'every citizen shall have equality of rights, obligations, and opportunities before the law', in fact such rights are mediated through other forms of identity, which may often be exclusionary and competing. People who 'belong' with one identity, whether based on location, religion, gender or ethnicity, are considered 'foreigners' with another.*

This remains one of the sore points that keep fueling the heightening of identity conflicts among the constituent ethnic groups in the country.

Secondly, it is people-oriented and adopts a 'bottom-up' approach that translates to the conferment of a state's sovereign powers on the people. Unlike the old practice that tend to place the crafting of the constitution in the hands of few elites and, sometimes, under utmost secrecy, "the accepted paradigm is to increase the deliberative and participatory nature of constitution-building" so that the constitution will "represent the sovereign will of the population at large, as well as the nuanced needs of those 'nations' that continue to live within the same state." (HPCR International, 2007-2008). As the 'Preamble' of almost every constitution portrays, "if sovereignty is indeed vested in and flows from the people (an implication also of the principle of self-determination), it is natural that they should determine how it should be delegated and exercised" (Ghai and Galli, 2006, p.13).

Generally, constitution-building promotes "a sense of common belonging and destiny critical for national unity" and territorial integrity (Ghai and Galli, 2006, p.10), even in multi-ethnic entities. It does this mainly by enhancing the ability of a political community to develop a national ideology and negotiated collective agenda for social and political change. The multi-ethnic composition of Nigeria and the attendant diverse identity-based interests have continued to play debilitating roles with regard to consensus building among the major ethnic groups. Unfortunately, the long period of military dictatorship in Nigeria stifled the budding pro-independence constitution-building culture in the country and replaced same with biased elitist constitutional impositions that tend to encourage identity rivalries and conflicts.

### 3. The Previous Constitution-building Aberrations in Nigeria

In the absence of a constitution-building culture, most of the constitutions operated in Nigeria, from the colonial period to the present, were not people and process-oriented and their rejection or unpopularity stemmed mainly from this problem. The result was the rejection and protests that trailed each of the constitutional arrangements. What follows in this section is an attempt to highlight some of the preceding agitations and fallouts of the previous constitutions in order to elucidate the obviousness of constitution-building aberrations in the Nigerian system.

#### 3.1 *The Constitutional Arrangement of 1914*

This was the first attempt at constitutional development in Nigeria. Strictly speaking, this may not be regarded as a constitution but an administrative arrangement put in place by Lord Lugard after the 1914 Amalgamation. The constitutional arrangement proved to be a failure from inception mainly because the very people whom it was meant to serve were neither consulted nor adequately taken care of. Similarly, no attempt was made to educate the indigenous people, especially the Chiefs, on the precepts of the political system which would have augured well for the articulation and aggregation of the interests of the governed which, in turn, would have formed a solid foundation for an enduring constitution-building culture in the country. Even though the Nigerian Council was intended as a further means of securing the expression of public opinion from every part of the newly amalgamated colonial territory, it was highly ineffective in this regard. It was stated, *ab initio*, that "no resolution passed by the Council shall have any legislative or executive authority, and the Governor shall not be required to give effect to any such resolution unless he thinks fit and is authorized to do so" (Nigerian Order-in-Council, 1913, p.241). The abolition of the Council in February 1923 was not, therefore, surprising or regretted by Nigerians.

#### 3.2 *The Clifford's Constitution of 1922*

Sir Hugh Clifford who replaced Lord Lugard in 1919 was forced to replace his predecessor's constitution because of the inherent flaws. His decision to this effect was greatly influenced by the activities of the educated Africans especially under the auspices of the National Congress of British West Africa (NCBWA). Certainly, the constitution made landmark contributions, such as the elective principle, towards the political development of the country. However, it only scratched the demands of the nationalists for greater participation, repeal of obnoxious ordinances and the overall development of the colonial territories on the surface (Crowder and Abdullahi, 1979, p.176-8). As observed by Olusanya (1980, p.523), such demands were described by the colonial authorities as, "loose and gaseous talk emanating from a group of self-appointed, self-selected educated gentlemen who collectively" claimed to be the representatives of the people, and that conceding their demands would be "incompatible with the natural development of real national self-government which all patriots in Nigeria should combine to secure and maintain." But, having realized the inappropriateness of a small fraction of the people to adequately represent the whole without prior consultations and the indispensability of an all-involving process in the building of a constitution, one would have expected the colonial authorities to properly sensitize and aggregate the wishes of the majority of the people in order to increase the acceptability of the constitution. This was not done either.

#### 3.3 *The Richards' Constitution of 1946*

The 1946 Richards' Constitution revealed an important lesson on the imperative of the people and process-oriented attribute of constitution-building: regardless of the inherent good intentions of a constitution, it is bound to fail if it is imposed on the people or bereft of the sustainable constitution-building ideology and structures. A closer examination reveals that some of the provisions of the 1946 constitution emanated from genuine intention on the part of the colonial authorities to sustain the unity of the country. The colonial authorities felt the need to recognize the socio-cultural and

political administrative differences between the northerners and southerners which made it expedient for each of the three regions to be assisted to develop at its own rate without necessarily pulling out of or dismembering the entity. On the irritation caused by lack of proper consultation of Nigerians, Governor Richards explained "that the proposals had to be hurried through the Council to enable the British Parliament to discuss and pass it before its dissolution for the General Election of that year" (Olusanya, p.526). To an extent, the projected rationale for the three regional structures sounds convincing. But same cannot be said about the other criticisms like non-increment in the number of the elected members of the legislative council, the restriction of the elective principle to Lagos and Calabar, and especially the problem of lack of consultations and debate of the proposal by the people for whom the constitution was meant for.

Besides, the period between 1944 and 1946 was long enough for the proper consultation of Nigerians by the new governor. Such consultations would have afforded Nigerians the opportunity to make their inputs and reach possible agreements with the colonial officials which would have reduced the attendant frictions. Governor Richards' predecessor in office, Sir Bernard Bourdillon (1946, p.80, cited in Olusanya, 1980, p.525-526) is said to have condemned the lapse on the grounds that a constitution "must not be 'a fossil, excavated from some museum and polished up for the occasion'" but "must be a living organism, capable of growth and adaptation to new circumstances," and which can only be achieved "if the people whom it concerns have a considerable say in its formation, and if it is suited to the soil in which it is intended to grow." Equally, many Nigerians saw the imposition as a calculated attempt to extend the despised British colonial 'divide and rule' strategy (Nnoli, 1980, p.112; Coleman, 1986, p.295; Akinola, 1988, p.442).

Again, as observed by Kalu Ezera (1960, p.76-84), whatever positive impact the constitution made by integrating the Northern and Southern Nigeria in one legislative council was shattered by the concept of regionalism which ignited the process of fragmentation of the country. With regard to adequate representation in governance, Nwabueze (1982, p.44) still recognized the constitution as "a semi-representative one" due to the fact that not up to half of the members were to be elected by Nigerians. Moreover, the Richards' Constitution was accused of having laid the foundation of the marginalization of the minority tribes in Nigeria who were swallowed up by the three major ethnic groups under the three regional structure.

### 3.4 Macpherson's Constitution of 1951

The 1951 Constitution provided a different crucial constitution-building lesson for the constitutional development of Nigeria - the problem of inadequate political socialization and interest aggregation which would have imbued the people with patriotic considerations and also harmonized the contending complex interests. In view of the shortcomings of the Richards' Constitution and the total condemnation that trailed it, the new Governor-General, Sir John Macpherson had set up a Select Committee of the Legislative Council in March 1949 which organized regional conferences at Ibadan, Enugu and Kaduna and eventually an All-Nigeria Constitutional Conference at Ibadan in 1950. As has been rightly observed, "this was the first time Nigerians had been called upon to work out their own constitution and so the new constitution provided them with the necessary training in the art of constitution-making" (Olusanya, 1980, p.533). The three regions agreed on a federal system with slight modifications, among other decisions. However, the conference revealed the gap in constitutional development and level of disunity existing between the North and South and which remains the bane of Nigeria's unity. For instance, the North insisted on having half of the seats in the House of Representatives on population grounds, and for revenue from taxation to be allocated on per capita basis. Again, whereas the East and West wanted a cabinet government, the North opposed it. Similarly, while the North and West desired the Electoral College system and creation of House of Chiefs, the East opposed them.

The same ethnic sentiments and schism also marred discussions on the choice of federalism and possible structures. The situation was only saved by the resolve of both the East and West to virtually agree to the demands of the North mainly for the sake of unity which was absolutely necessary for the struggle for independence. Consequently, although the people were consulted, the needed national ideology, policies, structures and socialization were conspicuously absent and

frustrated the attainment of a genuine document. Invariably, the constitution that emerged was highly criticized by the people. While some people saw it as being essentially unitary, others regarded it as an 'embryonic stage of federation'(Awa, 1964). On his part, Obafemi Awolowo (1960, p.179) saw it as "a wretched compromise between federalism and unitarism."

### 3.5 *Lyttleton Constitution of 1954*

Realizing the difficulties involved in getting the regions to work together, considering the differences in development and other attributes, the colonial authorities decided to review the 1951 Constitution to make room for the greater autonomy of the regions. It followed, therefore, that the London Constitutional Conferences of July and August, 1953 were convened ostensibly to rationalize what had already been agreed upon by the colonial authorities. However, in spite of its positive attributes, it was obvious that the constitution was meant to protect the interest of the colonial authorities who capitalized on the rivalry and disunity among Nigerian nationalists to continue to perpetuate such interests. Moreover, it soon dawned on Nigerians that the imbalance in the structures of the federation which the constitution granted turned out to be a hindrance to national integration and cohesion. Here again, the 'national' spirit or consciousness which is vital in constitution-building as well as the attendant spirit of sacrifice were shoved aside.

### 3.6 *The Independence Constitution of 1960*

The making of the 1960 Independence Constitution still maintained this false tradition of constitution-building. Overwhelmed by the delusion of regional autonomy, the Nigerian nationalists were quick to ask for total freedom without first putting the 'house' in order. Yet again, the colonial authorities feigned sincerity by convening the 1957/58 London Constitutional Conference which, however, confronted Nigerians with the choice of either the creation of more states or independence, as if the two cannot go together. In spite of the participation of Nigerians in the preceding constitutional conferences and the granting of independence, the rudiments of the new constitution was a reflection of the feelings of the British government and so failed to satisfy the expectation of Nigerians. Like its predecessors, there was no attempt to efface the division of the country along tribal lines. Neither did it tackle the issue of minority fears, since the constitution excluded the much-desired provision for state creation which would have helped to correct the imbalance in the structure of the federation. Thus, as vividly captured by Olusanya (1980, p.543-4),

*... Nigeria entered upon her era of independence with a Constitution unsuitable for a country with such diverse group of peoples who had not yet attained full national unity. This fact and the weak leadership with which the country was saddled coupled with selfishness and lack of high moral standard of behaviour almost destroyed a country that was ushered into independence full of hopes and showered with goodwill.*

### 3.7 *The Post-Independence Constitutions*

If the constitution-building aberrations during the colonial period are rationalized on the excuses, though flimsy, that the colonial authorities had to protect their political and economic interests or that the Nigerian nationalists were operating under hindering colonial fetters and had wanted to achieve total freedom first, the same cannot be said of the post-independence constitution-building and constitution-making arrangements. Though the post-independence indigenous political leaders fought vehemently against the ugly practice, they caved-in to the same 'sin' mainly as a result of the pressure of selfish and ethnic interests. The making of the 1963 Republican Constitution marked the first time Nigerians had the unfettered opportunity to make a constitution for the country and this was enacted through a law passed by the National Assembly of the country. However, apart from the endorsement of the republican status, the recognition of the Mid-Western Region and the enactment of the procedure for the creation of new regions or states, both the process and the constitution retained the vestiges of the 1960 Constitution. So, the usual tug of war among the

regions continued unabated, overheated the polity and ultimately led to the Civil War.

The 1979 and 1999 Constitutions were produced under the influence of the military and did not also follow the conventional constitution-building process and culture. That of 1979 was, with some amendments, the direct outcome of the Constitution Drafting Committee set up by the military in preparation for transition to civil rule. It was intended to correct the mistakes of the past. More importantly, the act of soliciting submissions from the general public marked the beginning of the involvement of the 'people' in the process of constitution-building, as the report of the CDC formed the basis of a great debate after which the Constituent Assembly, though partly elected and partly appointed, re-scrutinized the draft before the final submission. The entire process was designed to ensure the overall acceptance and legitimacy of the constitution by the people. In other words, it was about the first indigenous attempt at constitution-making and constitution-building as it was,

*made in the light of the peculiar circumstances of Nigerian environment, tradition and culture, by Nigerians, for Nigerians, thereby justifying the preamble: 'We the people of Nigeria ... do hereby make, enact and give to ourselves the following Constitution' (International IDEA, p.23).*

Regardless of its plausible attributes, the constitution was short-lived mainly due to inherent and implementation lapses. Its formulation was greatly influenced by the feelings of the military regime that midwived it. Invariably, its implementation was saddled with the legacies of the authoritarian and arbitrary practices of the long years of military rule in the form of political repression, abuse of executive power, breakdown of the rule of law and generally weak and docile legislatures.

The 1999 Constitution was a direct outcome of the Constitution Debate Co-ordinating Committee set up on the 11<sup>th</sup> of November, 1998 by the military regime in Nigeria and which allegedly reported that Nigerians were overwhelmingly in support of the reversion of the 1979 Constitution. However, the way and manner the constitution was produced as well as the passive 'approval' given by Nigerians, to a large extent, corroborated the fact that the constitution was a contingent arrangement to hurriedly midwife the transition to civil rule. Also, though the public debate that allegedly influenced the Committee's report was evocative of the debate that preceded the promulgation of the 1979 Constitution, it was absolutely not as popular. Apart from revealing the alleged self-perpetuation manipulations of the military, these constitution-building aberrations point to the futility of the entire effort and the exigency of a review of the constitution.

#### **4. Agitations for Constitutional Reform**

Continued pressure from Nigerians at different times led to the convening of national constitutional conferences that sought to find a lasting solution to the numerous grievances and opinions expressed by the component sections of the country concerning the need to review the 'social contract'. Unfortunately, according to Agomuo (2014), both the 1994 Constitutional Conference put in place by the late General Sani Abacha and the National Conference under the Obasanjo administration in 2007 were unable to assuage such agitations. On March 17, 2014, the then President Goodluck Jonathan inaugurated another National Conference aimed at resolving issues relating to the structural defects of the country, national security, the devolution of powers and fiscal federalism, among other 'viruses' that have continued to threaten the unity and stability of the country. Ordinarily, this was a move in the right direction. Unfortunately, however, matured Nigerians welcomed the conference with genuine pessimism especially with regard to its composition and the attached pre-conditions, including the 'no go areas' which tended to restrict the participants to only the symptoms instead of the ailments. Agomuo (2014) observed that,

*The hall of the National Conference is filled with retired and tired men and women, some recycled over ten times in similar gatherings, ethnic jingoists who have been carrying on there as if the totality of the conference was on how to share national resources, retired military personnel and failed politicians whose actions and inactions aggregated to bring the country to the sorry state it is at the moment. With all these, it is doubtful if the conference will lead the country out of the woods.*

Besides, there seemed to be a logjam between the National Conference and the National Assembly on the issue of statutory right to amend or review the constitution. The later, as the representatives of the people, set up an arrangement to amend the 1999 Constitution. As far as constitution-building is concerned, in view of the need to reinstate the sovereignty of the people, this was a move in the right direction because it widened the scope of the input from Nigerians to the review process. Equally commendable, towards this all-inclusive participatory stance, were the Peoples Public Sessions conducted by the House of Representatives in November 2012 (Daka, 2014) and the transmission of the constitutional amendments to the constituent states of the federation by the National Assembly (Onochie, 2014 and Daka, 2014). The disgusting aspect of the situation was the attempt by the National Assembly to conclude the amendment process without the accommodation or consideration of the recommendations of the larger and more representative National Constitutional Conference instituted by the federal government as demanded by the people and which worked concurrently on the same nagging constitutional issues. There emerged allegations that the recalcitrant action of the National Assembly members was probably motivated by the need to cover up the self-serving provisions of their recommended constitutional amendments such as life pension for the principal officers of the National Assembly (Sunday Guardian Editorial, 2014). Regardless of the take-off flaws that confronted the National Conference, as earlier observed, the view of every Nigerian needed to be accommodated no matter how derisive such may sound, at least, for the sake of carrying every segment of and class in the country along.

## 5. Concluding Analysis: The Missing Links and the Way Forward

It is rather puzzling that the country has experienced not less than nine constitutions but unable to sustain any. From the foregoing, a gamut of background problems that have been hindering the attainment of an enduring constitution-building culture over the years can be deduced. These include the influence of colonialism and its 'divide and rule' strategy that tended to favour one section against the others (Dudley, 1973, pp.58-9); politicization of ethnicity (Nwabueze, 1994, p.133); the minority problems (Ojo, 1985); and bad leadership and corruption, among others.

Specifically, there seems to be a wrong perception of constitution-building as a one-off episode, instead of a continuous process of political socialization and interest articulation and aggregation which culminates into constitutional reviews, *ad infinitum*. The logic here is premised on the dynamic nature of the human society. In view of the insatiability of human wants and the inevitability of frictions in human interactions, more so for multi-ethnic societies like Nigeria, constitution-building with its procedural and on-going bearing, just like democratization (Amaechi, 2010), provides the enabling environment for the solving of present and future societal problems, without necessarily resorting to a new arrangement each time or to inter-ethnic conflicts.

Besides, the necessary ideological and institutional frameworks for constitution-building are lacking in Nigeria, as the history of constitution-building in Nigeria is replete with contingent committees and arrangements. Moreover, there is the problem of political instability which engenders lack of continuity in governance and policies. Ordinarily, the attendant disruptions could not have been of much implication on constitution-building in the country but for the fact that each new regime, especially under the military, renders the existing constitution and its ideological basis impotent. All things being equal, the age of a constitution confers a good level of refinement or quality mark on it. In other words, the older the constitution-building experience, the better for the country. In this regard, the constitution of the United States of America remains a model.

As a way forward, the establishment of a National Constitution-building Commission is expedient. It will be responsible for nation-wide consultations and other innovative techniques that would ensure a participatory Constitution-building ideology, culture and process. Secondly, constitution-making in Nigeria should be preceded by a National Dialogue on Constitutional Development or Sovereign National Conference whose outcome would be further re-examined by series of national consultative conferences. The process of consultation needs to be based on the agreement and idea that constitution development is an unending process that requires constant reviews and amendments. It is also necessary to adopt a number of principles and declarative

statements in order to guide the process and encourage the public to participate actively in order to influence the emergent constitution-building process and elements. So, unless there is a genuine attempt at redirecting the country to the real path of constitution-building, conflicting sectional interests and grievances will continue to metamorphose into identify conflicts.

## References

- Agomuo, Z. (2014). As national conference winds down, what hope for Nigeria? *Business Day*, June 29. [Online] Available: <https://www.businessdayonline.com/as-national-conference-winds-down-what-hope-for-nigeria-2/> (October 15, 2015).
- Akinola, A. A. (1988). Nigeria: The quest for a stable polity: Another comment. *African Affairs*, Vol.87, No. 348, July, 441-445.
- Amaechi, C. M. (2010). Democratization in Nigeria: Nation-building versus state building. *International Journal of Development and Management Review* (NJODEMAR), Vol. 5, No. 1, 127-39.
- Awa, E. (1964). *Federalism in Nigeria*. Berkeley and Los Angeles: Univ. of California Press.
- Bernard Bourdillon, B. (1946). Nigeria's new constitution. *United Empire*, Vol. XXXVII, 76- 80.
- Coleman, J. S. (1986). *Nigeria: Background to nationalism*. Nigeria and Sweden: Broburg and Wistrom, 1986.
- Crowder, M. and Abdullahi, G. (1979). *Nigeria: An introduction to its history*. London: Longman.
- Daka, T. (2014). Reps vote on constitution review report this week. *Sunday Guardian*, 12 October. [Online] Available: <http://www.nguardiannews.com/lead-story/182760-reps-vote-on-constitution-review-report-this-week> (October 15, 2015).
- Dudley, B. J. (1973). *Instability and political order: Politics and crisis in Nigeria*. Ibadan: University Press.
- Editorial, (2014). On amending the constitution. *Sunday Guardian*, 09 November, [Online] Available: <http://www.nguardiannews.com/opinion/editorial/185947-on-amending-the-constitution> (February 3, 2016).
- Ezera, K. (1960). *Constitutional development in Nigeria*. Cambridge: Cambridge Univ. Press.
- Gaventa, J. (2002). *Introduction: Exploring citizenship, participation and accountability*. Brighton: Institute of Development Studies.
- Ghai, Y. and Galli, G. (2006). *Constitution building processes and democratization*. Stockholm: International IDEA.
- Hart, V. (2003). *Democratic constitution making*. Sp. Rep. 107, Washington, DC.: United States Institute of Peace. [Online] Available: <http://www.usip.org/pubs/specialreports/sr107.html> (April 21, 2017).
- HPCR International. (2007-2008). Constitutions: Constitutions and peacebuilding processes. *The Peacebuilding Initiative*. New York: International Association for Humanitarian Policy and Conflict Research and United Nations Peacebuilding Support Office. [Online] Available: <http://www.peacebuildinginitiative.org/index9eb1.html?pageld1=1721> (April 8, 2017).
- International IDEA, (2001). *Democracy in Nigeria: Continuing dialogue for nation-building*. Stockholm: International IDEA.
- Mbah, P. and Nwangwu, C. (2014). Sub-Ethnic Identity and Conflict in Nigeria: The Policy Option for the Resolution of the Conflict between Ezza and Ezillo in Ebonyi State. *Mediterranean Journal of Social Sciences*, Vol 5, No 2, January, 681-688.
- Ndoh, C.A. (1997). *Guide to constitutional development in Nigeria*. Owerri: CRC Publ. Ltd.
- Nigerian Order-in-Council*, 1913, paragraph XVII, 241,
- Nnoli, O. (1980). *Ethnic politics in Nigeria*. Enugu: Fourth Dimension Publishers.
- Nwabueze, B. O. (1982). *A constitutional history of Nigeria*. Essex: Longman.
- . (1994). *Nigeria '93: The political crisis and solutions*. Ibadan: Spectrum Books Ltd.
- Obafemi Awolowo, Obafemi. (1960). *An autobiography of Chief Obafemi Awolowo*. Oxford: OUP.
- Ojo, J. D. (1985). *The development of the executive under the Nigerian constitutions 1960-1981*. Ibadan: University Press Ltd.
- Olusanya, G. O. (1980) constitutional development in Nigeria 1861 – 1960. In Obaro Ikime (Ed.) *Groundwork of Nigerian History*. Ibadan: Heinemann, 518-544.
- Onochie, B. C., and Daka, T. (2014). N'Assembly transmits constitution amendments to states. *Guardian*, Tuesday, 28 October. [Online] Available: <http://www.nguardiannews.com/news/national-news/184704-n-assembly-transmits-constitution-amendments-to-states> (October 15,2015).