

AHEAD OF MAY 29

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# 2014 national confab and Niger Delta exit from bondage

By Godini G. Darah

FORMER President Goodluck Jonathan's initiative in convening the 2014 National Conference has entered the annals of Nigerian and African history as the bravest and most audacious political intervention for the redemption and liberation of Nigeria. As one of the delegates at the conference, I share the popular disappointment that the convener did not proceed to implement some of the critical policy recommendations before the convulsions of the 2015 general elections derailed the revolutionary trajectory that the confab heralded for our country.

Notwithstanding this temporary deferment, all the minorities and pro-federalism advocates in Nigeria are convinced that our country will never be free, sovereign, and developed unless and until the confab recommendations are implemented.

Against the background of this insurgent optimism, I wish to say that the forces that are impeding the actualisation of the promises of the confab will be eventually defeated and overcome. For the people of the Niger Delta region on which Nigeria depends for economic sustenance and political stability, the confab symbolises and memorialises the emancipatory dream embodied in Comrade Jasper Isaac Adaka Boro's proclamation of the Niger Delta Republic on February 23, 1966. That proclamation serves as a preamble to my highlights of fundamental recommendations of the confab. This is what Boro said at that historic moment:

"Today is a great day, not only in your lives, but also in the history of the Niger Delta. Perhaps it will be the greatest day for a very long time. This is not because we are going to bring heaven down, but because we are going to demonstrate to the world what and how we feel about oppression. Before today we were branded robbers, bandits, terrorists, or gangsters, but after today, we shall be heroes of our land."

The 2014 National Conference in Abuja was the 17<sup>th</sup> to be held in Nigeria since the 1914 amalgamation. A total of 492 delegates attended; they represented geo-political zones, states, national institutions, professional bodies, and diverse interest groups. The Chairman of the confab was Justice Idris Legbo Kutigi, a former Justice of the Supreme Court of Nigeria. His deputy was Professor Bolaji Akinyemi and the Secretary was Dr. (Mrs) Valerie Azinge. The conference sat from March to August, 2014. Twenty committees were set up to deal with specific themes and issues. The reports of the committees were debated at plenary sessions to

arrive at decisions *through consensus without voting or dividing the house*. About 600 resolutions and recommendations were made and classified into subject areas, with action plans attached to each. The report of the conference was submitted in 20 volumes.

To appreciate Jonathan's conviction about the confab as an excellent opportunity to redeem Nigeria, let me recall a paragraph of his inauguration address focusing on some of the fundamental issues for deliberation: "...the issues range from form of government, structures of government, devolution of powers, revenue sharing, resource control, state creation, state police and fiscal federalism, to indigeneship, gender equality, and children's rights..."

This tone of patriotism and objectivity inspired the deliberations of the conference. All through the six months of stormy sessions, robust exchanges and ideological and regional clashes, the then President never attempted to influence, tele-guide, or manipulate the delegates. Even when occasions warranted contact with the presidency for clarification on some knotty matters, he never entertained the requests. The government's stance of neutrality and respect for the delegates' autonomy and integrity encouraged everyone to work hard to avert premature failure in order to arrive at consensus on traditionally divisive and explosive matters.

It is important to enter a caveat here before proceeding to some details. The Hausa-Fulani hegemonic elite in Nigeria never wanted the conference convoked at all. When this ploy failed, their members came



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Delegates at the conference

to the conference poised to sabotage it as they did in 2005 when President Olusegun Obasanjo called the National Political Reform Conference. In the first four weeks of the Abuja Confab, there was a sudden outbreak of violent clashes between nomadic Fulani herdsmen and communities in the Middle Belt States, resulting in deaths and destruction. Almost on a daily basis "Northern" delegates orchestrated legislative gambits such as "point of order", "information", "a matter of urgent national importance". There were calls on President Jonathan to declare a state of emergency in the affected areas. All of these dramas were scripted, rehearsed, and acted to achieve one aim: that Jonathan was an incompetent President and was, therefore, not politically and morally qualified to convoke a national conference. The Southern delegates deftly subdued these pressures and the conference continued, thanks largely to the tolerance, ingenuity, and integrity credit of the Chairman, Justice Kutigi.

It should be noted that in all these schemes of subversive subterfuge, the majority of delegates from the core Hausa-Fulani states acted in concert and unison: Generals, Muslims, Malams, Christians, Pastors, Emirs, Traditional Rulers, Ambassadors, Technocrats, Feudalists, Bourgeoisie, Capitalists, Marxists, radicals, human rights activists, and all generations and classes of professionals closed ranks in defence of "Northern interests". On the part of the pro-federalism groups, there were regular caucus meetings of delegates from the North-Central, South-East, South-South, and South-West to reach accords on how to counter the antics and strategies of the anti-federal, pro-status quo delegates in the conference.

In the final weeks of the conference, vile and divisive propaganda was mounted by the pro-status quo groups aimed at discrediting the fundamental resolutions arrived at by consensus. Sensational and blatantly false headlines were employed to mislead the

general public about the outcome of the confab. But the Confab Report was submitted to President Jonathan at a closing ceremony in August. The Report was discussed and approved by the Federal Executive Council for implementation. We can now attempt a digest of some recommendations that touch the heart of the national question and federalism in Nigeria.

#### Devolution of powers and federating units:

In the prevailing arrangement, the central or federal government in Abuja relates to the states and local councils as colonised, impoverished and appendages. This is in contradiction to the timeless tenet of a federal system in which the centre and states exist as co-equals and coordinates. The 1999 Constitution undermines this federal principle because it was a military document imposed on the Nigerian people. For example, the Abuja government treat the local governments in the country as separate tier of government in violation of Section 7 that stipulates that local governments are strictly affairs of States. That is why the 774 local governments take part in the monthly sharing of public revenue husbanded in the Federation Account.

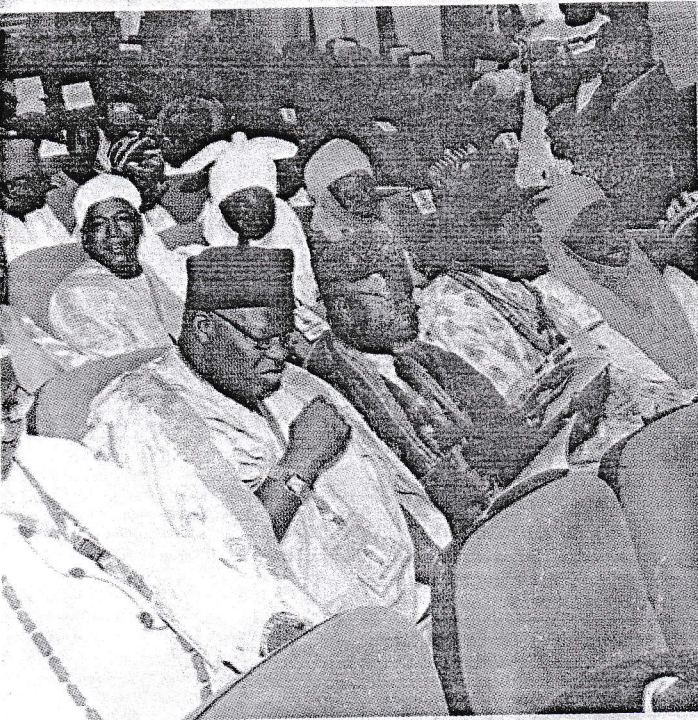
The confab corrected this anomaly by affirming that there shall be only two tiers of government as federating units, namely, the federal or central government and the states. The local governments shall not constitute a tier of government as is currently the case by default. Therefore, the names of the 774 local government areas shall be removed from the First Schedule, Part 1 of the 1999 Constitution. The wrong listing of the local government areas according to states makes it impossible for any state to create new ones or merge some if necessary. Fiscal federalism is enhanced by the decision of the confab in that local governments shall no longer participate in the sharing of public revenue. This is, indeed, congruent with the spirit and letter of Section 7 of the 1999 Constitution as shown below:

"The system of local government by demo-

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some burden of funding the economy and survival of the country. For several decades now, only 10 of the 36 states have been contributing the revenues for running the country. These exploited states are, in alphabetical order: Abia, Akwa Ibom, Bayelsa, Cross River, Delta, Edo, Imo, Lagos, Ondo, and Rivers. All the other states, including the Federal Capital Territory of Abuja, contribute next to zero to the Federation Account, yet they partake in the monthly sharing of public revenue. With the increase of the share of states to 58 per cent and the removal of local governments as a tier of the federation, the overburdened states will now be able to retain a substantial portion of the revenues generated in their areas. In the First Republic, the regions, now states, received 50% of public revenues derived from them.

Another noteworthy change in support of fiscal federalism was the decision the confab took on Item 39 of the Exclusive Legislative List containing 68 matters on which only the federal government can legislate. Item 39 deals with "Mines and minerals, including oil fields, oil mining, geological surveys and natural gas." Debates on this item were so fractious and bellicose that they nearly aborted the conference. Characteristically, many "northern" delegates opposed any amendment to the phrasing of the item, but the "North" had accomplices from some southern states. In the end, it was resolved to amend Item 39 in a manner that leaves it technically in the Exclusive Legislative List as follows:

"Mines and all minerals, including oil fields, oil mining, geological surveys and natural gas, provided that (a) the governments of states where mining activities take place shall be involved in matters relating thereto, (b) the government of the federation shall make special grants to develop mines and minerals in states where such resources are underdeveloped."

To assuage the fears of states about a sudden drop in revenue, the Conference approved the setting up of a Solid Minerals Development Fund of five per cent (5%) of federal annual budget to jump-start the exploitation of currently undeveloped mineral resources.

To further break down the resistance against fiscal federalism, delegates from the South-East, South-South, and South-West devised strategies to convince the opponents of federalism that they had more mineral resources in their states than are in the entire southern Nigeria. We obtained from the Ministry of Solid Minerals Development the list of all 42 commercially viable solid minerals in the country. The list was circulated to all delegates. The list revealed that each of

The conference resolved to decentralise and devolve power as widely as possible in order to bring responsible and accountable governance to the grassroots levels. The removal of local government areas as a tier of government was the initial step taken in support of this imperative. The conference overcame diversionary and irrelevant arguments such as economic viability of states, inability of some of the current 36 states to meet their routine obligations, as well as the fear of having too many administrative units that could bloat bureaucracies and compound fiscal insolvency. The genuine anxiety about having a high number of states was allayed squarely with the superior view that Nigeria's cultural and linguistic complexity and diversity warrant the expansion of democratic space to enable every territorial unit and population cluster to be as self-governing as possible.

the two adjacent states of Taraba and Plateau has about 25 solid minerals.

Besides diamond and gold, the two states have reserves of uranium, a strategic mineral for atomic energy. It is instructive to note that the number of solid minerals in Taraba and Plateau states is higher than that in the whole of the continent of Asia that includes the Arab nations of the Middle East, China, India, Japan, Malaysia, Indonesia, Vietnam, Thailand, and Bangladesh. From the list we identified ten of the most abundant and ubiquitous solid minerals and they are indicated hereunder according to the number of states in which each mineral abounds:

Clay (16 states); Kaolin (15 states); Limestone (15 states); Granite (12 states); Salt (12 states); Marble (11 states); Gold (10 states); Baryte (9 states); Coal (8 states); and Bitumen (5 states).

It should be further noted that the bitumen deposit in the states of Ondo, Edo, and Lagos discovered since 1913 is second in volume to that of Venezuela in South America. Yet Nigeria continues to import bitumen products for road construction. It was clear to all delegates that with the lavish endowment in mineral resources Nigeria had no excuse whatsoever to concentrate only on the exploitation of crude oil and natural gas that destroys communities and the environment.

There is another element of interest in the Exclusive Legislative List in the Second Schedule, Part 1 of the 1999 Constitution. Ten of the 68 items are fundamental for the practice of an equitable federal system. Among them are taxation, ports, railways, insurance, and incorporation and registration of corporate bodies. The confab was able to reduce the items for exclusive federal legislation to 10, leaving 58 for concurrent law making by the central and state governments. This drastic reduction in the number of matters exclusive to the central government will enhance the practice of federalism in the country.

**Derivation clause in the 1999 constitution:** The conference was unable to resolve the vexed issue of the imperative need to

cratically elected local councils is under this Constitution guaranteed; and accordingly the Government of every State shall...ensure existence under a Law which provides for the establishment, structure, composition, finance and functions of such councils."

By this affirming Section 7 of the Constitution, which has been violated since 1999, states such as Kano with 44 local government areas shall now be required to provide for their funding with revenue generated by the state. Similarly, short-changed states such as Lagos with about the same population as Kano but with only 20 local government areas shall be free to create more, reorganise and adjust the number to suit their peculiar situations. Bayelsa with the least number of local governments (eight in all) can exercise its federal autonomy to create more for its water-logged and neglected territories.

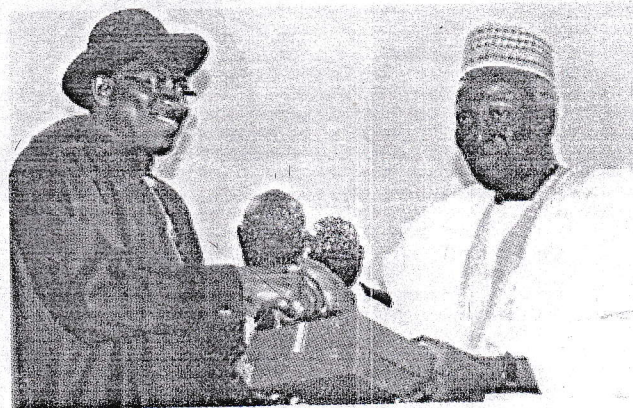
During military dictatorship, local governments were arbitrarily created to favour revenue-famished states in the North to the detriment of resource-rich ones in the South. Kano State illustrates the sinister design. Kano and Jigawa were once one state like Rivers and Bayelsa. When Jigawa was created out of Kano, Kano State still retained its 44 local government areas while Jigawa was allotted 27. The two states now have a total of 71 local governments. In contrast Rivers and Bayelsa with population about the same as Kano and Jigawa have 23 and 8 local governments respectively, making a total of 31, less than half the total for Kano and Jigawa. With the progressive recommendation of the confab on the matter, this injustice shall stop.

**Fiscal federalism and revenue sharing:** The most oppressive and unjust aspects of the military-imposed 1999 Constitution pertain to the provisions for revenue sharing between the central government and the federating units. In the three decades of military rule, as I have observed above, policies were introduced for distributing public revenue in favour of the revenue-poor states and local governments in the 19 states in the North.

There is also the unfair allocation arrangement that gives 52 per cent of public revenue to the central government in Abuja, with the states and local governments having 26 per cent and 22 per cent respectively. The confab made considerable gain by reducing the proportion of the centre from 52 per cent to 42 per cent. With removal of the local governments as tiers of the federation, states shall now be entitled to 58 per cent of the share of the Federation Account. This is a substantial improvement on the existing situation as it can insulate states from the financial epidemic of insolvency that is partly responsible for the inability of many to pay workers regularly and fund the provision of basic facilities and welfare schemes.

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Former President Jonathan receiving the Confab Report from Justice Idris Kutigi

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increase the derivation quantum of "not less than thirteen per cent" as stated in Section 162 (2) of the 1999 Constitution. The demand of the oil-rich states and Lagos with two ports and huge revenues from Value Added Tax (VAT) was for 50 per cent benchmark as it was in the 1960 and 1963 Constitutions. Debates at committee and plenary sessions were always stalemated. It was finally resolved to ask the President to empanel experts to handle the matter for consideration and deliberation by the National Assembly by way of an executive bill.

It is regrettable that the conference was unable to recommend the amendment of Section 44 (3) of the Constitution that vests ownership and management of oil and gas resources in the Federal Government. This Section constitutes the biggest obstacle to the existence of federalism in Nigeria because it dispossesses the oil and gas states of their prime sources of wealth. It is this iniquitous and apartheid legislation that has made the Niger Delta states economic colonies and vassals of the central government of Nigeria for about forty years now. Unless and until Section 44 (3) is abrogated, Nigeria will remain only a nominal and caricature federation. The Section is reproduced hereunder to guide those involved in the titanic struggle to restructure Nigeria and restore a genuine and equitable federal system: "...the entire property in and control of all mineral oils and natural gas in, under, or upon the territorial waters and the Exclusive Economic Zone shall vest in the government of the Federation and shall be managed in a such a manner as may be prescribed by the National Assembly."

**State and multiple policing systems:**

One index that qualifies Nigeria to be grouped by political scientists among "failed states" is the inability of the government to provide security for the citizens as enshrined in Section 14 (2b) of the 1999 Constitution as follows: "the security and welfare of the people shall be the primary purpose of government". All Nigerian governments from the military regime in 1966 have breached this constitutional mandate. The current state of insecurity and anarchy in the country represented by insurgent movements, violent crimes, felonies, and wanton abuse of fundamental human rights is symptomatic of the dysfunctional and unjust political order being operated.

The military dictators that destroyed and liquidated the federal system made the central government to have monopoly control of police and security responsibilities throughout the country. From the time a federal system was introduced in the 1940s, the regional governments operated their own police formations. There was also the Nigeria Police Force run by the government at the centre. The two systems complemented each other, resulting in more operational efficiency. The abolition of this federalist principle has aggravated the situation of general insecurity across the country. Thus today, Nigeria with a population of over 170 million has about 400,000 police personnel for the entire country, less than the number required to secure a single state such as Lagos or Kano.

To alleviate the resultant crisis of subversive acts such as *boko haram* insurgency, armed robbery, kidnapping, murder, and uncontrollable damage to public utilities, the conference approved the existence of multiple police establishments by states, local gov-



Justice Idris Kutigi, Chairman of the confab



Dr. (Mrs) Valeris Azinge, Secretary

ernments, and municipalities and cities, and special areas. This is the practice in all major federations such as the United Kingdom, United States of America, Canada, India, Germany, Switzerland, and Australia. For example, in the City of London alone, there are several police formations in operation. The safety and security we admire in those countries is due to this democratised system of protection and security of life and property.

**Restructuring Nigeria through creation of new states:**

The conference resolved to decentralise and devolve power as widely as possible in order to bring responsible and accountable governance to the grassroots levels. The removal of local government areas as a tier of government was the initial step taken in support of this imperative. The conference overcame diversionary and irrelevant arguments such as economic viability of states, inability of some of the current 36 states to meet their routine obligations, as well as the fear of having too many administrative units that could bloat bureaucracies and compound fiscal insolvency. The genuine anxiety about having a high number of states was allayed squarely by the superior view that Nigeria's cultural and linguistic complexity and diversity warrant the expansion of democratic space to enable every territorial unit and population cluster to be as self-governing as possible.

In the light of these preambles, the confer-

ence recommended the creation of additional 18 (eighteen states) to bring the total to 54, a figure comparable to the 51 in the United States of America with similar feature of diversity. There are about 511 languages spoken in Nigeria and 311 in the United States of America.

The primary criterion used to determine the number and location of the new states was that of equity and equality among the six geo-political zones of the country. The prevailing unbalanced arrangement shows that the North-western zone has seven (7) states while the others have six (6) each, with the exception of the South-East zone with five (5). It was also agreed that there is no scientific basis for making all states equal in size and population. In the United States there are states such as Alaska, Honolulu, and Rhodes Island that are micro when compared with California or Texas. Similarly, there are some mega states in India with population figures larger than Nigeria's of 170 million. It was further agreed that there was an urgent need to create new states from the ones with multiple ethnic groups and languages.

The glaring examples are Adamawa with 80 languages, the highest number of tongues spoken in a single administrative Nigeria unit in Nigeria, nay Africa. Other multi-lingual States in Nigeria are Plateau, Taraba, Kogi, Benue, Bauchi, Gombe, Borno, Kaduna, Niger, Kogi, Kebbi, and Cross River.

For zonal equity and balance, it was decided

to create one additional state for the South-East Zone, which has just five now. In the North-West zone, only two new states shall be added. When this is done, all the six geopolitical zones of the country shall have nine (9) states each. The zone-by-zone distribution of the recommended 18 new states is as follows:

**North-Central Zone:** *Apa* State from the present Benue State; *Edu* State from the present Niger State. The area envisaged for the Edu State is made up of about 25 ethnic groups who are currently marginalised and under-represented; and *Gurara* State from the present Kaduna State. Gurara is to cover all of Southern Kaduna that has experienced cultural and religious intolerance leading to cycles of violence and deaths.

**North-East Zone:** *Katagun* State from the present Bauchi State. Bauchi is another polyglot of ethnic groups. In the capital city of Bauchi alone, there are close to 10 ethnic groups and languages; *Amana* State from the present Adamawa State (Amana State is to expand democratic and cultural space for the long-oppressed areas such as Chibok, a Christian stronghold where schoolchildren were abducted by *Boko Haram* terrorists in 2014); and *Savannah* State from the present Borno State (Savannah State territory comprises mostly minority ethnic groups different from the Kanuri, the majority ethnic group that will remain in the old Borno State after the creation exercise).

**North-West Zone:** *Kainji* State from the present Kebbi State; and *Ghari* State from the present Kano State.

**South-East Zone:** *Etititi* State from the present South-East Zone. The territory is to be mutually decided by the entire zone; *Aba* State from the present Abia State; *Adada* State from the present Enugu State; and *Njaba-Anim* State from the present Anambra and Imo states.

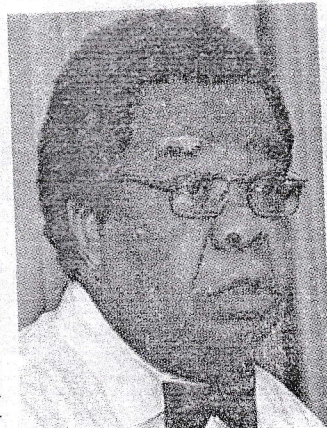
**South-South Zone:** *Anioma* State from the present Delta State; *Ogoja* State from the present Cross River State; and *Oil Rivers* State from the present Rivers State.

**South-West Zone:** *Ijebu* State from the present Ogun State; *Ose* State from the present Ondo State; and *NewOyo* State from the present Oyo State.

The processes to be followed in creating a new state are spelt out in Section 8 of the 1999 Constitution. The processes culminate in a referendum to determine the opinion of the people of the area that needs a new state. All the steps listed in Section 8 can be concluded in a few months. The only difficult one is Section 8 (1c), which stipulates that "the result of the referendum is then approved by a simple majority of the Houses of Assembly". This legal hurdle can be surmounted through amendment by the National Assembly in order to facilitate the creation of the new states to enhance restructuring and federalism in Nigeria.

In his handover process, President Jonathan specifically enjoined his successor, President Muhammadu Buhari to diligently implement the approved report of the National Conference in order to promote good governance, rapid economic development, security and stability in Nigeria. I would like to add by affirming that President Buhari's administration can only ignore the report of the conference at its own peril. In any case, judging from the current mood in the country, there is hope that even if President Buhari demurs in the implementation of the confab report, the Nigerian people will restructure the country by whatever means necessary.

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Prof. Akinyemi, Deputy Chairman



Prof. G.G. Darah