

FRONTLINE nationalist and elder statesman, Chief Anthony Enahoro, was recently reported to have said that those of them who fought for Nigeria's independence devoted more energy and time to the struggle to expel British colonial power than the time and energy they expended in laying the foundations for a democratic and just independent Nigerian nation. He was speaking to some reporters in July 2009 on the 86th anniversary of his birth. I salute this living legend for his humility and modesty. Were I present at the press briefing I would have made some exceptions - which would have included him. But Enahoro did not make any exceptions and this made his statement more profound.

Chief Enahoro was referring, in particular, to the enduring ethnic nationality question and the present geopolitical structure of the Federal Republic of Nigeria. For more than two decades he has been campaigning, on several platforms and in combination with various people and groups, for a fundamental geopolitical restructuring of the country. Briefly stated, according to my own understanding, Enahoro has been campaigning for the restructuring of the federation along ethnic nationality lines where the federating entities will enjoy more powers and exercise more responsibilities and control of their affairs than the existing states-relative, of course, to the Federal Government. It is also my understanding that the restructured Federal Republic of Nigeria will operate within the framework of liberal democracy, expanded human rights, and what some Nigerian feminists would call "empowered womanhood".

The present piece is inspired by the formulation given above. The following simple questions may be posed: What type of federation is currently being run in Nigeria? What type of federation does the 1999 Constitution of the Federal Republic of Nigeria prescribe? What type of federation is desirable for Nigeria? What socio-political forces currently exist in Nigeria, or can be created, to fight for the desirable

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federal structure? The last question is of critical importance because for a political programme to be taken seriously it has to prescribe, identify or propose the social forces that can fight for it. Even if we are drafting a programme for future generations, and not as an immediate political task, intellectual responsibility demands that we envisage some historical agencies. We all know that these agencies cannot be constructed arbitrarily, but must be linked to the nature of the programme and the (political) history of the country.

The first question, namely, what type of federation we are currently operating in Nigeria, is the easiest to answer. The simple answer is that no one knows. In particular, no one knows the entities that are "federating". Is it the states that are federating or the states and local government areas? Do you still call Nigeria a federation - even with this uncertainty? The classical *federal principle* recognises two levels of government: The Federal Government and federating Regional Governments. K.C. Wheare, in his classic, *Federal Government*, put the relationship between the two levels of government like this: "What is necessary for the federal principle is not merely that the Federal Government, like the Regional Government, should operate directly upon the people, but, further, that each government should be limited to its own sphere and, within that sphere, should be independent of the other."

The federal principle has, of course, developed in time and in space beyond what K.C. Wheare and other classical writers formulated and prescribed. But, the two levels of government should "operate directly upon the people". If not, what we have is a confederation and not a federation. This has to be borne in mind by many of our compatriots who formulate the question of restructuring in a way that suggests that the Federal Government should "hands off" almost everything. Secondly, for each level of gov-

ernment, there should be clearly defined powers and responsibilities, and clearly defined "spheres" where these powers and responsibilities may be exercised without interference from the other level. If not, what we have is not federation, but unitarism, or anarchy, or "Somalia", or something worse.

Now, what type of federation does the 1999 Constitution of the Federal Republic of Nigeria prescribe? The most charitable answer is that it is unclear. We may illustrate my response with what the Constitution says about the local government system. Section 7(1) stipulates: "The system of local government by democratically elected local government councils is under this Constitution guaranteed; and accordingly, the government of every state shall, subject to Section 8 of this Constitution, ensure their existence under a law which provides for the establishment, structure, composition, finance and functions of such councils".

We shall return to this statement, but let us briefly look at what Section 8 says. The relevant subsections empower a State Government to create new local government areas, and adjust boundaries between existing ones, within the area it governs. But the subsections also prescribe the conditions to be met and steps to be taken before this can be done. This is clear enough. But since the local government areas currently existing in the country together with their headquarters, are listed in the Constitution, the process of creating new local government areas cannot be completed until some parts of the Constitution are amended. This is again clear enough and the Supreme Court had said so. However, since the power to amend the Constitution is vested in the National Assembly, the final picture is that new local government areas cannot come into existence until the National Assembly

performs its own part of the task, namely, amending the relevant parts of the Constitution.

Now, what happens if the National Assembly, for some reasons or for no reasons at all, refuses to amend, or "unduly" delays the amendments of, the Constitution as required? The logical answer is that the State government concerned either drops the matter, that is, forgets the creation of new local government areas, or goes to the Supreme Court to request it to force the National Assembly to do its work. On the other hand, what happens if a State Government, having completed its own part of the process of creating new local government areas, goes ahead, without waiting for the national Assembly, to conduct council elections, inaugurate the new councils and put them to work?

The logical answer is that the State Government can be dragged before the Supreme Court. But by whom? The National Assembly? The President? Any Nigerian citizen? Should the matter be "forced" by the Federal Government? Definitely No. Does there not emanate the need for a particular "watchdog" of the Constitution empowered to receive complaints of violation of the Constitution from governments, institutions and citizens and bring same to the Supreme Court - if convinced that a case has been made? I think this system exists in Turkey. It is not a dormant law, but a constitutional provision that is vigorously enforced.

We may go back to Section 7(1) of the Constitution. I know that in Natural Sciences and in Mathematics, in particular, authors try to ensure that there are no ambiguities in the formulation of rules. It is not sufficient to argue that "common sense" will assist us to attach correct contextual meanings and implications to phrases and words. We should be explicit where doing so costs little or nothing in space consumption. When, for instance, subsection 7(1) says that: the Government of every state shall ensure

the existence of local government councils under a Law which provides for... "common sense" may indicate that it is the state that is empowered to make the Law. But there is nothing in the formulation of that subsection that compels that interpretation.

A local government council within a state is empowered by Section 7(1) to participate in economic planning and development in its area of authority and, for this purpose, the subsection prescribes the establishment of an economic planning board by a Law enacted by the State House of Assembly. But it is not states explicitly that local government councils will be represented in the "economic planning board". But should they not?

Finally Section 7(1) states that: "Subject to the provisions of this Constitution

- the National Assembly shall make provisions for statutory allocation of public revenue to local government councils in the Federation; and

- the House of Assembly of a state shall make provisions for statutory allocation of public revenue to local government councils within the state". A simple but critical question is whether the money flowing from the centre to local government councils should pass through the State Governments or go straight, undiminished, to the local government councils. The answer is again left to "common sense".

The Fourth Schedule to the Constitution lists the "main functions" of a local government council. In others, the 1999 Constitution of the Federal Republic of Nigeria stipulates the *minimum* functions to be performed by local government councils. The list is really long, and includes "participation in the Government of a State" in some critical areas of people's needs. The question is whether the councils have the material and human resources capacity to perform even the "minimum" functions. My answer is No.

The conclusion here is that the type of federation we are currently operating in is not clear, and the Constitution does not make the situation any clearer.

In the first part of this piece, I posed four related questions: *One*: What type of federation is currently being operated in Nigeria? *Two*: What type of federation is prescribed by the 1999 Constitution? *Three*: What type of federation is desirable in Nigeria? *Four*: What social-political forces currently exist, or can be created, to fight for the realisation of a desirable federal system? Having looked at aspects of the first two questions we may now turn to the last two.

In lieu of preface, let us briefly review relevant experiences in five countries – three of which no longer exist: the Soviet Union, Yugoslavia, Czechoslovakia, Somalia and Rwanda. In 1922, the Soviet Union was constituted as a Union of 15 constituent republics. The Constitution granted each republic the right to self-determination up to, and including, the right to secede from the Union. The ruling Bolshevik Party was serious about the secession clause and, to demonstrate this, the Union was constituted in such a way that each Union republic shared borders with at least one foreign country. This made secession, if decided upon, practicable. A “land-locked” republic, completely surrounded by some other Union republics, would find it impossible to secede. The same principle and practical approach informed the constitution of Czechoslovakia and Yugoslavia.

The first two of these three countries – the Soviet Union and Czechoslovakia – disintegrated peacefully in the early 1990s partly because none of their constituent, or federating, republics was “land-locked”. Yugoslavia, with six constituent republics, could have gone the same way but for a factor which we in Nigeria must ponder seriously: Serb nationalists within and outside Serbia – the largest constituent republic – did not want the break-up of the country. But when disintegration became inevitable, Serb nationalists responded with two alternative strategies: to create a Greater Serbia by incorporating, into Serbia, ethnic Serbs outside Serbia, or to create independent

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Serb enclaves in constituent republics dominated by non-Serbs. We know the result.

Somalia has no “ethnic problem” as such. Beyond that the country is a Muslim majority nation. What happened in 1991 was that an attempted *coup d'état* led to a break-up of the country into armed clans that descended into parallel civil wars and anarchy. Somalia has had no central government since then. And the country is today a model of “failed state”. The tragedy of ethnic-divided Rwanda is still fresh in our collective memory: An armed struggle to remove a government in 1994 led to the assassination of a president and triggered the slaughter of almost a million people. Nigeria has profound lessons to learn from the experiences of these five countries – that is, if the lessons of our (1967-1970) Civil War are not sufficient.

Now to Nigeria. I subscribe to a geopolitical restructuring of the country as an immediate task. As basis for this particular discussion we may turn to the Draft Constitution proposed in August 2006 by Peoples' National Conference (PNC). In place of the present 36-state structure, the draft Constitution proposed a federation of 18 ethnically-based regions. Twelve of the regions are mono-ethnic and six are multi-ethnic. A map of Nigeria's ethnic nationalities sharing the 18 regions is shown on the cover of the document.

The proposed mono-ethnic nationality regions, each of which is proposed as a federation, are, in alphabetical order: Ibibio, Ijaw, Igbo, Urhobo, Edo, Yoruba, Tiv, Nupe, Fulah, Gbagyi, Kanuri, and Hausa. The six multi-ethnic nationality regions, each of which is also proposed as a federation, are: South East, East Delta, West Delta, West Middle Belt, Central Middle Belt, and East Middle Belt. According to the draft Constitution under review, the federating entities in the Federal Republic of Nigeria will be the regions. State creation will be the responsibility of the regions and the states will be responsible for the creation of

local government areas.

My first observation here is that the People's National Conference actually took pains to list Nigeria's ethnic nationalities in the Draft Constitution. This should be commended. This level of thoroughness and seriousness has set a standard for what has to be done to produce a new Constitution for Nigeria. It also reminds me of what Chief Tayo Akpata said recently in an interview, namely, that the task of reviewing or re-writing the Constitution is too serious to be left entirely in the hands of the National Assembly. Chief Akpata, the Ima of Benin, is a veteran progressive politician and administrator and – before then – an activist nationalist. Yes, a new Constitution which is as inevitable as it is desirable – if the country must survive and remain one – cannot be, and must not be, the exclusive task of the National Assembly.

The second observation is that going by the proposed restructuring based on the Ethnic Nationalities Map of Nigeria on the cover and last page of the document before me, some of the 18 proposed federating regions are actually “land-locked” in the sense the term has been used in this piece. The “land-locked” regions, as I can see, include: Edo, Igbo, Central Middle-Belt, Nupe and Gbagyi. May be there are more; but that is what I can see. The point is that the Draft Constitution includes the secession clause – which I endorse completely. But it does not provide for the practicability of secession by ensuring that no federating region is “land-locked”. To this I object-also completely.

The third observation strengthens the main fear I have concerning restructuring along ethnic nationality lines, or rather, along strictly ethnic nationality lines. Drawing the boundaries in some areas will be almost impossible through conferences – whether

national or not, whether sovereign or not. It can be done only through war or other forms of armed imposition. Let me say here – with all responsibility and humility – that I was one of the first to propose the (regional) restructuring of Nigeria and I was also one of the first to introduce the term Sovereign National Conference (SNC). This was as early as 1992. But I knew, and still know, the limits of conferences in dealing with the question of power – especially when rapacious, selfish, oppressive, anti-people, capitalist-oriented and utterly unpatriotic classes and blocs, as in Nigeria, are in power.

We may summarise the three points so far made: the listing of ethnic nationalities is a commendable undertaking; some proposed regions are “land-locked”, and this is problematic, to say the least; and there are limits to what conferences can achieve in drawing up boundaries between ethnic nationalities in Nigeria. But having said this, I have to re-state my belief that Nigeria has to be restructured and reconstituted, through appropriate constitutional arrangements, along lines that eliminate ethnic domination, enhance self-determination at the grassroots, promote popular political participation, radically raise the quality of life across the whole country and radically reduce regional disparities. This is a big agenda.

Adopting current political language, I support *resource control*, *fiscal federalism* and *true federalism*. In particular, I see no difference between Regions collecting revenues and paying taxes or making contributions to the Federal Government and Federal Government collecting revenues and sharing with the Regions. All provided, of course, that the principles are clear and just and, more importantly, provided, that popular-democratic and pan-Nigerian forces are in power.

Yes. The social forces that can fight for a just and democratic restructuring must be popular-democratic (and in the present historical

context, also radical and revolutionary) and pan-Nigerian. Any social forces that already believe that Nigeria must either break up or be restructured strictly along ethnic nationality lines cannot fight for the type of restructuring that I believe is desirable and realisable. I am not afraid of disintegration. I am only afraid of the inevitable bloody process – given the history and experiences of Nigeria and the level of national integration. Why should one be afraid? If the ruling classes and blocs continue to behave as if Nigeria is their property and Nigerians are their slaves – to exploit as they wish – and if popular-democratic and pan-Nigerian forces cannot remove them from power, then a fate worse than disintegration will befall us.

We now come to the question of governmental structure at the centre. I shall be sketchy and will draw from the interview, earlier mentioned, that was recently granted by Chief Tayo Akpata to *The Guardian* and published in the paper's edition of Sunday, July 5, 2009. Modifying Chief Akpata's suggestion, we may propose two possible systems – each of which is a mixture of presidential and parliamentary systems of government. In the first system, a newly elected National Assembly meets to elect members of the Presidential Council – one member for each federating region. The Council is chaired, in rotation, by its members.

The Collective and Rotational Presidency described above may either be an executive one or share executive power with a cabinet headed by a Prime Minister. Each alternative produces a different system. Finally, for any new system, the measure of its desirability, in the final analysis, is the degree to which the working and toiling people, together with all other oppressed segments of the population, including women, liberate themselves and assume control of their lives and the means of reproducing their lives and, by so doing, liberate the society as a whole. In other words, without a promise of popular liberation neither the present Nigeria nor a restructured one is desirable.

• *Concluded.*