

## **The Constitution and Foreign Policy Making in Nigeria, 1960-1999**

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### **Abstract**

The aim of this paper is to examine the successive Constitutions of the Federal Republic of Nigeria since independence with a view of finding out the relationship between constitutional provisions and Nigeria's foreign policy. The Constitution of any country is the ground norm that delineates the legal regime and fundamental principles of state policy. The foreign policy principles' component spells out the philosophical and ideological trajectories of the foreign policy vision and orientation. Similarly, in the case of Nigeria, foreign policy principles also reflect the philosophical, political and ideological vision of the country, especially as it pertains to Africa and the global affairs. We argue that there has been a progressive improvement in the constitutional provisions for foreign policy making in Nigeria from the First Republic to date. The paper opines that certain constitutional provisions relating to foreign policy are guides for developing strategies and frameworks for foreign policy making important domestic and external environments contemporary global social, political and economic realities mainstreamed in the pursuit of foreign policy. The provisions of successive Nigerian constitutions have been the major reference documents for this paper, in addition to few other documents.

**Keywords:** Constitution and Foreign policy, Nigerian Constitution, Nigeria's Foreign Policy,

### **Introduction**

The Constitution of any country is the ground norm of its legal regime and also outlines the trajectory of governance. Most countries of the world also constitutionally specify their foreign policy principles and objectives. Akinyemi (1979, p:3) commenting on countries that have constitutional provisions relating to their foreign policy postulated that 'the United States' constitution has only 17 provisions, the Soviet Union Constitution, 39 provisions, while the Nigerian Constitution has 73 provisions. Since independence in 1960, successive Constitutions have overtime outlined and given philosophical and ideological direction of Nigeria's foreign policy objectives; and such directions have, willy-nilly, impacted on the pursuit of Nigeria's foreign policy.

Foreign policy is a broad field; it deals with chains of policy issues that cut across different areas of human endeavours. Therefore, the issue that arises is what items are to be included in the study of foreign policy and constitution making in Nigeria. The decision of what to include here is purposive and deliberate; else as we alluded to earlier, the items would be endless. The issues to be addressed are national interests and welfare of citizens, Afrocentrism and Pan-Africanism, and promotion of international cooperation and peace. These foreign policy issues are central to Nigeria's foreign policy objectives. In each of these items, there are layers of issues that underscore their dynamics and operationalisation. The focus of our analysis would be on how to relate these layers to their constitutional provisions and their alignment with Nigeria's foreign

The topic of foreign policy and constitution has not in the Nigerian foreign policy studies. As such, writings by Nigerian scholars on the constitution and foreign policy are few and not so

extensive.. And the reason for this is due to plethora of factors which are immediately not within the ken of this paper. For the most part, the emphasis is a study on a particular constitution. Akinyemi's *Foreign Policy and The Constitution* examines the reports of the Constituent Assembly (CA), Constitution Drafting Committee (CDC), Supreme Military Council (SMC), and finally, the 1979 Constitution and how they impact on the understanding and interpretation of Nigeria's foreign policy. Akindele (1990, 1999) examines the constitutional structure for foreign policy making in the 1979 and 1999 Constitutions. In both instances, the Constitution of the First Republic is missing. This is the gap in this area of Nigeria's foreign policy and constitution that we propose to fill in this paper.

Beyond this gap, the paper examines the constitutional provisions inherent in the other constitutions. This is another dimension of the paper that has not been previously explored. In other words, the paper examines the constitutional structure for foreign policy making from the First Republic down to the Fourth Republic. Our approach and methodology in the conduct of this paper is not to look at the various constitutions and their provisions for foreign policy. Rather, our approach is thematic; that is, examining a foreign policy issue as it cuts across the various constitutions. In view of this analytic framework, therefore, the paper is divided into three broad foreign policy themes that are central to the understanding of Nigeria's foreign policy as constitutionalized.

### **National Interests and Welfare of Citizens**

The pursuit of a country's national interests is at the heart of any foreign policy enterprise. National interest broadly conceptualized deals with those issues, aspirations, ambitions and goals that a nation-state holds dear to its sovereign survivability. A nation-state's national interests are not cast in finality but are dynamic in nature and character; they keep changing and undergoing conceptual reconfigurations as the environment recalibrates its dynamics. The pursuit of national interests is fundamentally geared towards the welfare of the generality of the citizenry. In view of this, therefore, foreign policy goals and objectives are almost always grafted on the wheel of national interests all purposed to enhance the welfare of the citizenry. The various constitutions of Nigeria taking this fact into consideration have articulate this imperative in their provisions.

The 1960 Constitution and the 1963 Republican Constitution are silent on the issue of national interests; that is, they are not expressly constitutionalised. In both constitutions, Chapters II (7-17) and Chapter III (18-33) deal with citizenship and fundamental rights respectively. In both sections, the primacy of the citizens, the protection of their rights and freedom are the primary responsibilities of the government. Indeed, these constitute some of the major national interests of the modern state. A nation-state whose citizenry are at the mercy of external aggression cannot be said to possess the key ingredient of a sovereign state which is security. The modern state must be seen to be secured and possess power to navigate in the turbulent waters of the international system. Hence, citizenship is one of the central most critical element of national interests and foreign policy.

The 1979 and 1999 Constitutions make provisions for both citizenship and specifically outlined Nigerian foreign policy objectives. Beside stipulating the objectives of Nigeria' foreign policy, the two constitutions also outlined the Fundamental Objectives and Directive Principles of State Policy which are in a sense coterminous with Nigeria's national interests. Some of the aspects of the fundamental objectives and directive principles are political objectives, economic objectives, social objectives, educational objectives and environmental objectives. The Constitutions also made provisions for citizenship and fundamental human rights. In specific terms, the relevant provisions that deal with national interests and citizenship in the

1979 Constitution are as follows: Chapter II; Fundamental Objectives and Directive Principles of State Policy; Chapter III Citizenship; and Chapter IV Fundamental Human Rights.

Both the 1979 and 1999 Constitutions are variant from the 1960 and 1963 Constitutions in one major remarkable way: the foreign policy objectives of Nigeria are clearly articulated and spelt out in the former whereas the latter is silent. In specific terms, Chapter II (19) of the 1979 Constitution articulates the foreign policy objectives of Nigeria in these words:

The state shall promote African unity, as well as total political, economic, social and cultural liberation of Africa and all other forms of international co-operation conducive to the consolidation of universal peace and mutual respect and friendship among all peoples and States, and shall combat racial discrimination in all its manifestations

The one major difference between the 1999 and 1979 Constitutions with respect to Nigeria's foreign policy is the depth of articulations. Whereas the 1979 Constitution epigrammatically captures the thrust of Nigeria's foreign policy, that of 1999 is more elaborate in the enunciations of Nigeria's foreign policy objectives as stipulated in Chapter II (19: a-e) viz:

- a. Promotion and protection of the national interests;
- b. Promotion of African integration and support for African unity;
- c. Promotion of international co-operation for the consolidation of universal peace and mutual respect among all nations and elimination of discrimination in all its manifestation;
- d. Respect for international law and treaty and obligations as well as the seeking of settlement of international disputes by negotiation, mediation, conciliation, arbitration and adjudication; and
  - a. Promotion of a just world economic order.

### **Afrocentrism and Pan-Africanism**

The pursuit of the fundamental principles and ideals of Afrocentrism is a major pillar of Nigeria's foreign policy thrust since independence. The central focus of Afrocentrism and pan-Africanism is the prioritisation of Africa and African affairs in Nigeria's international relations; and the promotion of the racial bonds that unite Africans and opposition to all forms of exploitation, marginalisation, oppression and domination and denigration of Africa and its people, culture and civilisation. The idea of Africa as the centrepiece of Nigerian foreign policy was first articulated by Sir Abubakar Tafawa Balewa, the former Prime Minister of Nigeria, on the occasion of Nigeria's accession to the United Nations Charter on October 7<sup>th</sup>, 1960, cited in Lamido (1999) that:

It is the desire of Nigeria to remain on friendly terms with all the nations and to participate actively in the work of the United Nations Organization. Nigeria, a large and populous country, has absolutely no territorial or expansionist ambitions. We are committed to uphold the principles upon which the United Nations is founded. Nigeria hopes to work with other African countries for the progress of Africa and assist in bringing all African countries to a state of independence. So far, I have concentrated on the problems of Africa. Please do not think that we are not interested on the problems of the rest of the world; we are intensely interested in them and hope to be allowed to assist in finding solutions to them through this organization, but being human we are naturally concerned first with what affects our immediate neighbourhood (p: xiii-xiv).

This foreign policy enunciation constitutes the core of what is termed the Balewa Doctrine. And it is on the basis of the articulation that the underlisted principles and objectives of Nigerian foreign policy are derived.

- a. The protection of the sovereign and territorial integrity of the Nigerian state;
- b. The promotion of the economic and social well-being of Nigerians;
- c. The enhancement of Nigeria's image and status in the world;
- d. The promotion of unity as well as the total political, economic, social and cultural liberation of our country and Africa;
- e. The promotion of the rights of black people and others under colonial domination;
- f. The promotion of international co-operation, conducive to the consolidation of world peace and security, mutual respect and friendship among all peoples and states;
- g. Redressing the imbalance in the international power structures which has tended to frustrate the legitimate aspiration of developing countries;
- h. Respect for the sovereignty, independence and integrity of all nations; and
- i. The promotion of world peace based on the principles of freedom, mutual respect and equality of all persons of the world.

The operative phrase that concerns us here is, '...being human we are naturally concerned first with what affects our immediate neighborhood.' It is the foundational pillar of Afrocentrism and pan-Africanism in Nigeria foreign policy; and successive administrations and constitutions in Nigeria have continued to prioritise this objective. Both the provisions of the 1960 and 1963 Constitutions are completely silent on this aspect of Nigeria's foreign policy. The 1963 Constitution in Chapter III (18-29) deals with Fundamental human rights. The human rights it specifically outlines are 18) deprivation of life; 19) inhuman treatment; 20) slavery and forced labour; 21) deprivation of personal liberty; 22) determination of rights; 23) private and family life; 24) private of conscience; 25) freedom of expression; 26) freedom from discrimination; 27) freedom of movement; 28) derogations from fundamental rights. These provisions are not expressly aligned to the idea of Afro-centrism and pan-Africanism but they are at the center of the issues that affected the African continent and its peoples at the time. Colonialism, slavery, apartheid, and many other forms of oppression and marginalization's were rift on the African continent.

By placing constitutional accent on the promotion of human rights, the common expectation is that their internationalization to embrace the human rights of Africans and wherever they exist would constitute a top foreign policy priority of the administration. And the truth is that they were, and this is reflected in their clear articulation by the aforementioned Balewa Doctrine. That said, if the 1960 and 1963 Constitutions were silent on these crucial aspects of Nigeria's foreign policy, the 1979 and 1999 were unambiguously clear in their enunciations. As aforementioned, Chapter II (19) of the 1979 Constitution articulates the Afrocentric and pan-African thrust of Nigeria's foreign policy that, 'the State shall promote African unity, as well as total political, economic, social and cultural liberation of Africa.' In the 1999 Constitution, the objectives of Nigerian foreign policy in this regard are itemised in Chapter II (19) thus, 'promotion of African integration and support for African unity.'

There have been some conceptual epistemological contestations over the concept of whether the provisions relating to Afro-centrism and pan-Africanism should be anchored on the phrase 'African solidarity' or 'African unity.' According to Akinyemi (1979), solidarity is a more dynamic word and gestures fundamentally to the ideals of pan-Africanism than the elusive concept of African unity. As he noted (1979, p:4), the choice of the word 'solidarity' rather than 'unity' shows a preference for the minimum definition of pan-Africanism.' Whatever may be the point of conceptual dissonance in the semantical and conceptual argumentation on African unity or solidarity, the inerasable fact is that even though Afrocentrism and pan-Africanism has been a major agenda of Nigerian foreign policy since the First Republic, the constitutionalisation of the pan-African imperative in Nigeria's foreign policy only took place in the 1979 and 1999 Constitutions.

### **Promotion of International Cooperation and Peace**

The promotion of international peace and co-operation is the last layer in the architecture of Nigeria's foreign policy. The fundamental essence of modern international system is the preservation of global peace, harmony, justice, and the creation of an enabling environment for the pursuit and realisation of human happiness and preservation of culture and civilization. Across the spectrum of human history, wars and other forms of conflict have posed as dangerous phenomenon to the realisation of global peace and harmony. Resultantly, many attempts and institutional frameworks have been evolved at both the national and supranational level for the creation of an enabling environment that would be conducive to the search for global peace and harmony. Treaties, conventions, declarations and institutional platforms such as the defunct League of Nations (LN), the United Nations Organisation (UNO) and a plethora of other regional organisations and platforms are all geared toward the pacifists' and idealists' values of the international system.

The African continent and its peoples have been historically marginalised in the evolution of the modern international system. It has suffered the afflictions of historical discrimination, racism, slavery, colonialism, imperialism, oppression, suppression and uncountable phenomenon of marginalisation and domination politically, economically, culturally and psychologically. The Africans struggle throughout the modern history of man has been how to liberate them from the external talons of domination and exploitation. In view of this, the postcolonial foreign policy agenda of African countries was the promotion of a peaceful and just world order that would liberate Africans and Africa from the historical jaws of its exploitation. In addition to this point, in the period after 1945, the rivalry between capitalism and communism whose emblematic was the Cold War between the East and West further worsen the dilemma of African countries in the international system. This ideological bifurcation created so much tension and conflicts in the world system; and thus, further made it the more demanding for the pursuit of global peace and cooperation. Many countries responded in a variety of measures.

Nigeria took the path of fighting the ailments of colonialism, Apartheid, exploitation and domination the plagued the African people with the philosophical vision that the entombment of these ailments and the creation of a peaceful and harmonious global order would conduce to realization of the ideals of human culture and civilisation. For this reason, therefore, the various constitutions of Nigeria expressed these feelings and points of view. Although the foreign policy objectives of Nigeria as it related to the promotion of international peace and cooperation were clear in their articulations, to wit: a) redressing the imbalance in the international power structures which has tended to frustrate the legitimate aspiration of developing countries; b) respect for the sovereignty, independence and integrity of all nations; and, c) the promotion of world peace based on the principles of freedom, mutual respect and equality of all persons of the world, and d) the promotion of international co-operation, conducive to the consolidation of world peace and security, mutual respect and friendship among all peoples and states; the 1960 Constitution was completely silent on these principles and were tangentially broached in the 1963 Republican Constitution.

The foregoing scenario witnessed fundamental change in the 1979 and 1999 Constitutions. In Chapter II (19) the 1979 Constitution stipulates that "the State shall promote... all other forms of international co-operation conducive to the consolidation of universal peace and mutual respect and friendship among all peoples and States, and shall combat racial discrimination in all its manifestation". On the other hand, the 1999 Constitution outlines the foreign policy objectives of Nigeria as it relates to international peace and cooperation in Chapter II (19) to be;

promotion of international co-operation for the consolidation of universal peace and mutual respect among all nations and elimination of discrimination in all its manifestation; respect for international law and treaty and obligations as well as the seeking of settlement of international disputes by negotiation, mediation, conciliation, arbitration and adjudication; and promotion of a just world economic order.’

The provisions of the 1999 Constitution are more elaborate than those of the 1979 Constitution. Notwithstanding the depth of provisions in the two constitutions, both of them have provisions relating to global peace and cooperation. Although both Constitutions are silent on the foreign policy position of Nigeria with respect to the aforesaid ideological rivalry, the foreign policy principle was based on the principles of non-alignment to any of the ideological blocs and erected on the Balewa Doctrines of;

the promotion of international co-operation, conducive to the consolidation of world peace and security, mutual respect and friendship among all peoples and states; redressing the imbalance in the international power structures which has tended to frustrate the legitimate aspiration of developing countries; respect for the sovereignty, independence and integrity of all nations; and the promotion of world peace based on the principles of freedom, mutual respect and equality of all persons of the world.

From the foregoing analysis, the major conclusion that would be drawn is that there has been a progressive improvement in constitutional engineering in Nigeria for enhanced and effective pursuit of foreign policy goals and objectives. The 1960 constitution and the Republican Constitution of 1963 were largely less articulative on foreign policy matters. This perhaps could be attributed to the fact that Nigeria had just come out of colonialism and was walking in the shadows of her former colonial master, Britain. On account of this reason, the constitutionalisation of foreign policy objectives and their aggressive pursuit are not immediate national priorities. More so, the much-needed resources to pursue an ambitious foreign policy were not immediately at the disposal of the federal government; on the contrary, the immediate challenge of the government as a recently decolonized nation centered on issues of state- and nation-building.

It is important to note that while the 1960 and 1963 Constitutions were less articulate on the constitutional goals of Nigerian foreign policy, it would be misleading to conflate such constitutional provisions with lack of national agency in foreign policy pursuits. Indeed, the scenario was the reverse. Whereas the constitution was somewhat silent on the fundamental foreign policy objectives of Nigeria, the Sir Abubakar Tafawa Balewa led administration was very proactive on the foreign policy scene. It is to the credit of the administration that it laid the philosophical and foundational pillars of Nigeria’s foreign policy which were well articulated on the floor of the Federal House of Representatives, the 1960 Independence Day broadcast of the Prime Minister, and the Prime Minister’s speech on the occasion of Nigeria’s accession of the United Nations Charter in 1960. Till date, what passes as Nigeria’s foreign policy are mere policy accretions on the pre-existent foundation laid in the First Republic.

In subsequent Constitutions, especially those of 1979 and 1999, Nigeria began to take more interest in the articulation of her foreign policy objectives in the Constitution. What began as a small measure blossomed in latter constitutional materializations. The 1979 Constitution was pithy and epigrammatic in its enunciation of Nigeria’s foreign policy objectives; however, the 1999 Constitution was more articulate and expressive of the foreign policy objectives of Nigeria. The point needs to be made that what are enunciated in the constitutions as foreign policy objectives and principles are mere guides for deeper empirical and philosophical constructions of the strategies and approaches of practical foreign policy engagements. As

Akinyemi (2005, p:40) clearly stated, ‘...after laying down general strategic doctrine, every nation’s foreign policy reacts to the external stimuli.’

The international environment is very dynamic and radiates issues that are critical to a nation-state foreign policy principles and objectives. In some instances, these issues are not conceptually visualized and therefore present the foreign policy makers with a spectacle that requires profound critical thought that incorporates and align the foreign policy principle of a nation-state and the pursuit of global peace and cooperation. And at times also, such impulses for critical thought are derived from the domestic environment. In whatever environment the trigger for new direction for policy change and orientation may come, the fact of the matter is that foreign policy initiatives are not static and immobile. Therefore, constitutional stipulations for foreign policy are not cast in finality but merely provide the organizing principles and frameworks for the foreign policy orientation of nation-states. It is, therefore, recommended that Nigeria should be very proactive on the contemporary international scene, especially with respect to global issues that reflect and refracts on Nigeria’s national interests and foreign policy objectives.

### **Conclusion**

Constitution is a critical ingredient in the foreign policy making process of any modern state. The Nigerian experience in foreign policy has amply demonstrated this fact. The paper looked at four Nigerian Constitutions, to wit: 1960, 1963, 1979 and 1999. The justification for this period is that from the available literature, even though there are works in the area of constitution and Nigerian foreign policy, there is no study that systematically looks at the constitution and foreign policy since 1960 to date. This is a major gap in this area of the study that the paper filled.

Using three major central themes in Nigerian foreign policy (national interests and citizenship; Afrocentrism and pan-Africanism; promotion of international peace and cooperation), our findings indicate that the aforementioned elements have been incorporated into the successive Nigerian constitutions and impacted on Nigerian foreign policy architecture in varying measures. The 1960 and 1963 Constitutions were however, not elaborate in their provisions and postulations on Nigeria’s foreign policy principles and objectives. We conjecture that this scenario could have arisen because in the period under review, Nigeria was just coming out of colonial domination and lacked the resources and time to pursue an elaborate and aggressive foreign policy. However, this deficiency was compensated with the enunciations of the Balewa Doctrine which outlined the foreign policy trajectory of Nigeria in profound details and also embarked on the measures to actualising them.

As time wore on, especially in the Second and Fourth Republics, the respective constitutional order that undergird them improved progressively in the constitutionalisation of Nigeria’s foreign policy objectives. We say progressive because, in the 1979 Constitution, the foreign policy agenda of Nigeria as enshrined in the constitution was in its incipiency whereas in its latter form in the 1999 Constitution, the foreign policy principles and objectives of Nigeria were more articulate and expressive. But more importantly, we argued that, the constitutional provisions of foreign policy principles and objectives are not the major fulcrum that drives a nation-state foreign policy. The internal and external environments and their dynamic character are central to the operationalisation and pursuit of a nation-state foreign policy agenda. The Nigerian experience in Constitution and foreign policy making has amply demonstrated this fact.

## **Recommendations**

In order to make Nigerian foreign policy more dynamic and robust, the paper recommend that Nigeria should pursue a more progressive and dynamic foreign policy as dictated by the forces of the contemporary international system.

Secondly, the foreign policy makers in Nigeria should not lose sight of the constitutional provisions of Nigeria's foreign policy, and that such principles and objectives at any given circumstance must chime with the Nigeria's national interests and the contemporary trajectory of international peace, justice and cooperation.

Thirdly, since foreign policy initiatives are not static and immobile and constitutional stipulations for foreign policy are not cast in finality but merely provide the organizing principles and frameworks for the foreign policy orientation of nation-states. It is, therefore, recommended that Nigeria should be very proactive on the contemporary international scene, especially with respect to global issues that reflect and refracts on Nigeria's national interests and foreign policy objectives.

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