

Affirmative Action and Federal Character Principle in the U.S. and Nigeria: Implications for Nation Building

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Abstract

Affirmative Action (AA) and Federal Character Principle (FCP) are policies adopted by the U.S. and Nigerian governments respectively to achieve equitable representation of various segments of their population in public institutions. The approaches complement other policies that aim to foster peaceful coexistence among diverse ethnic and racial groups in both countries. Critics have however argued that the implementation of the policies is only reinventing discrimination through preferential treatment of hitherto disadvantaged groups. The article's position is that policies such as AA and FCP are appropriate to redress inequities so as to close the gap in access to opportunities by different groups and therefore enhance the process of nation building in both countries. In line with this submission, the paper recommends continuous review of AA/FCP to reflect contemporary challenges in ethnic/racial relations in both countries. For instance the mass incarceration of African Americans indicates that AA needs to be expanded beyond the sphere of employment and education to include other aspects of public life including the justice system. In the case of Nigeria, there is need to strengthen the rules guiding the Federal Character Commission (FCC) and its powers to prosecute offenders to ensure that the implementation of FCP remains fair and transparent and does not become an additional avenue for the marginalization of the masses by the ruling elite.

Keywords: Federal Character, Affirmative Action, USA, Nigeria, Nation Building

Introduction

Affirmative action and its other variants such as the Federal Character Principle (FCP) in Nigeria are approaches that governments adopt to ensure equitable representation of various segments of its population in public institutions and agencies. AA/FCP therefore necessarily enhances the cause of nation building by complementing other approaches that promote harmonious coexistence in plural societies. The adoption of AA and its other variants became imperative in states where certain groups were the target of discriminatory policies in the past.

The U.S. belongs to this category. AA has been adopted to remedy discriminatory practices especially against African Americans who were subjected to segregationist policies since the 17th Century.¹ It also became one among several other approaches to foster unity in Nigeria where inter-group relations have been characterized by ethnic rivalry and the fear of being dominated by any or a collection of ethnic groups.

Clearly the historical contexts that necessitated the adoption of AA/FCP in both countries differ primarily in that discrimination in America is between a dominant group (Anglo-Saxon Whites) and the Blacks, Native Americans, Hispanics (Latinos) and Asian minorities while in Nigeria, there is no guilty group that is morally bound to make reparation for past misdeeds.² In terms of objectives however, the policies have significance for strengthening social cohesion and unity in both societies which are divided by racial and ethnic differences. The point is that guaranteeing representational equity in public institutions is important to elicit broad-based support necessary to sustain nation building processes. As Jochen Hippier argued “the state structures and their relations to the different segments of society are at the core of nation building”? AA has contributed to positive changes outside the context of race and ethnicity. It is the guiding principle adopted by the United Nations to correct gender-based discrimination and has been embraced by member states.⁴ In India, the “Reservation System” which is a variant of AA, is used to remedy discrimination against the Dalit or the “Untouchables” who were treated as an inferior caste from the pre-colonial period ?

A review of literature on AA and FCP as it applies to both countries indicate that it is not widely accepted by those who have become disadvantaged or have been denied their rights because the implementation of AA entails fighting discrimination through discrimination. Therefore, significant populations resent AA/FCP in both countries thereby undermining the efforts at forging a common feeling of oneness necessary to sustain nation building. Some problems associated with FCP in Nigeria were stated in, “Federal Character and Federalism in Nigeria” edited by P.P Ekeh and E. E. Osaghae. These include the lack of balance between merit and representative equity, the failure to incorporate religious and ethnic identities into the state-based criteria while the emphasis on group/state identity is injurious to the development of national consciousness.⁶ In one of the chapters, Godwin Sogolo however asserted that “a situation of unequal treatment may still be just in so far as the net result is to the benefit of all”⁷ But Suberu and Diamond point out that in practice, FCP in Nigeria is an ideology of the minority ruling class aimed at protecting their narrow interest and will therefore limit the pursuit of national integration? Ashwini Deshpande demonstrated that the problem is not limited to Nigeria alone. While it is not a case of the ruling elite manipulating the policy to their benefit, the AA programme tends to benefit the Better-off’s among the target population in India and the US. He therefore suggested that preference schemes such as the AA should be more class-driven than ethnic/ racial based.⁹

In another study, Jochen Hippier agreed that nation building involves redistribution of power and as such triggers resistance from members of the hitherto privileged groups.¹⁰ In a way, even what can be considered a modest achievement that has been recorded in the U.S. and Nigeria from implementing AA policies continues to generate resentment by those who have

been 'victims' of preferential treatment and the opinion is that the policies should be reviewed or discontinued.

Cognizant of the contending issues pertaining to AA in the U.S., Tameshnie Deane's position is that the legitimization of programmes such as AA is essential to correct centuries of discrimination in the U.S. which were equally entrenched through laws.¹¹ Her view is reinforced in the numerous publications that focused on "New Jim Crowism" in the U.S. A foremost author in this category Michelle Alexander argued that America's claim to post-racialism cannot be supported empirically as racism still exists and has been reinvented in the political, economic, social aspects of public life in that society.¹² This paper brings these various views together highlighting the lessons that can be gained in preferential treatment schemes as it applies to both countries.

Conceptual and Theoretical Considerations

Nation building is a conscious effort to unify diverse groups within a given polity. Often this process requires both coercive and persuasive or non-coercive methods. At the initial stage, force is often required when culturally disparate groups resist efforts at integration. Both countries passed through these phases in their development as states. The U.S can be said to have passed through this phase with the 1861-1865 Civil War which eventually united the Confederate and Unionist states.¹³ Similarly the Nigerian Civil war (1967-1970) was also partly fought to prevent the eastern region from seceding and to guarantee the continued existence of Nigeria as a composite state.¹⁴

The nation building process in both states have been continually pursued through various programmes, policies and legislation with the primary objective of fostering a sense of belonging, an attachment and common loyalty to the nation above that ascribed to the various groups.

However the context under which nation building was pursued differed from one period to another. With reference to African states, nation building referred to the efforts by post-colonial governments to re-construct and restructure their countries that had been created without regard to ethnic, linguistic and religious boundaries. Such efforts revolved around the adoption of one-party states with the hope that it will reduce political fractionalization and be a rallying point for various ethnic groups.¹⁵ Carolyn Stephenson noted another dimension of nation building which she explained as a programme in which "dysfunctional or unstable or "failed states" or economies are given assistance in the development of governmental infrastructure, civil society, dispute resolution mechanisms, as well as economic assistance, in order to increase stability".¹⁶ In this case, nation building aims to revive a falling regime or to effect a regime change especially for its strategic reasons and to protect the economic and security interests of the intervening state. This dimension of nation building has been mainly associated with America and it is expressed in the country's support for democratization processes around the world. This often entails the use of the military and civilian personnel to help maintain law and order and provide institutional support for favorable regimes.¹⁷

One perspective that clearly anchors the link between nation building the FCP and AA is expressed in Samuel Ugoh and Wilfred Ukpere's article in which they stated that modern

democracies cannot avoid the legitimation of representativeness. Their argument is that relying on legislation to regulate representational equity can enhance administrative penetration in plural societies and curtail abuse of power by bureaucrats.¹⁸ In a related study, Samuel Krislor cautioned that structured arrangements such as the AA “is even more acute in countries like Nigeria where bureaucrats exercise enormous discretionary powers” which may have far reaching effects on citizens like statutes”.¹⁹ Administrative representativeness promotes a sense of inclusion and at the same time establishing guidelines for that purpose is essential for continuity. For instance, the adoption of Jim Crow laws in the 1890s even after the abolition of slavery were as a result of the arbitrariness of the White-controlled government’s particularly in the Southern colonies.²⁰

British Rule and the Political Polarization of Ethnic Nationalities in Nigeria

Nigeria with a population of about 170 million people is made up of over 300 ethnic groups that could be distinguished by the various languages, culture and religion. Although the groups existed as autonomous political entities they interacted through wars, trade and marriage but more importantly each tended to exercise political autonomy even as vassal states. The various nationalities were merged into administrative units following the introduction of the British Indirect Rule System from the latter part of the 19th century.

The changes in the administrative structure could be traced to the 1898 Selbome Committee which recommended that administrative units be formed from the collection of ethnic groups. This led to the creation of the northern and southern protectorates as separate administrative units. The merging of administrative units continued up till 1914 when the Southern and Northern protectorates were brought together in what can be referred to as the “grand amalgamation” under the governorship of Frederick Lugard.²⁰

The 1914 amalgamation did not necessarily bring about the unification of the several ethnic nationalities although bringing them together under a single British administration increased such a prospect. Instead, the seed of discord was continually sown between the ethnic groups. The British treated each region as a distinct administrative and cultural area. The Northern protectorate inhabited by the Hausa Fulani, Kanuri, Tiv, Gwari and several other ethnic groups was nurtured as a Muslim enclave and protected from Western influence and culture through a rather cautious policy on Christian missionary activity and western education. On the other hand, the Southern protectorate inhabited by the Yoruba, the Igbo Urhobo, Ijaw, Efik Ibibio, Edo and several other ethnic groups was opened up to Christian missionary activity and western education.²¹

The protectorates were also administered separately and with the division of the southern protectorate into the western and eastern regions in 1939 a tripartite ethnic structure emerged with the Hausa, Igbo and Yoruba as the most populous in each of the three regions.²² The feeling of separateness among the three dominant groups or what has come to be referred to as regionalism was again reinforced in 1954 with the Littleton Constitution which granted the regions fiscal autonomy and created a federal structure.²³ This provided the ground for the scramble over bureaucratic appointments by the major ethnic groups. The new administrative arrangement provoked agitation by minorities who began to demand for their own regions for

fear of being marginalized by the “big three”. As part of the strategy to ensure equity among the various groups the quota system was adopted from this period and was primarily based on the proportional representation of each region in legislative councils as well as the military.²⁴

With a federal structure in place, inter-ethnic relations acquired a more complex form such that ethnicity became the major determinant of political participation in Nigeria. To be sure, the major political parties were representative of specific ethnic groups. The National Council of Nigeria and the Cameroun’s (NCNC) although had a more national appeal was considered an Igbo party since its leader Nnamadi Azikiwe was Igbo. The Action Group (AG) led by Obafemi Awolowo was considered a Yoruba party while Northern People’s Congress (NPC) led by Ahmadou Bello was seen as the Hausa-Fulani party. This pattern of ethnic politics was maintained even after independence in 1960 and took a more overt form with the coup d’etat’s in the 1960’s and the outbreak of a 30-month civil war during which violence was expressed along ethnic lines.²⁵

It is against this background that several measures were taken even before the country attained independence in 1960 to regulate relations among the competing groups so as to achieve political stability. Some of the policies and efforts to achieve this objective were the state creation exercises in 1967 and 1976, the National Youth Service Corp (NYSC), the establishment of Unity Schools, the harmonization of University Admission policy through the establishment of the Joint Admission Matriculation Board (JAMB), as well as the Federal Character Principle.²⁶

Origin and Assessment of the Federal Character Principle in Nigeria

The federal character principle as a policy was initiated by the Murtala Mohammed and Olusegun Obasanjo regime between 1976 and 1979. It was part of the matters deliberated by the Constitutional Drafting Committee (CDC) and was adopted “as the supreme principle of state and government business in the 1979 Constitution”.²⁷ The principle was based on quota system which centered on proportionality based on population strength and spread. Thus, all states or sections and geographical zones should have an equal share of national amenities as well equality in the distribution of infrastructure. There were efforts to achieve representative equity even during the colonial period when the British adopted the Nigerianization policy to correct the imbalance that resulted from the domination of the public service by the British personnel. While the policy was implemented on a regional basis special consideration was given to the north which had been educationally disadvantaged. The idea of positive discrimination with reference to northerners metamorphosed to “northernisation” which was the replacement of southerners in the public service with qualified northerners.²⁸

The FCP was further consolidated in the 1999 Constitution while there were efforts by successive administrations to implement the policy in various sectors of national development. The FCP has been applied to recruitment and promotion in military, states cabinet, the civil service, education sector, the distribution of social amenities, infrastructural developmental efforts and even in the composition of the national football team.²⁹

To further enhance the implementation of FCP, the Federal Character Commission was established in 1996 and vested with the mandate to monitor and enforce the federal character

principle in appointments, promotion and address inequalities in the distribution of social amenities and infrastructural development in the country. The Commission was also vested with the powers to prosecute heads of ministries and parastatals for failing to comply with its regulations. The implementation of the FCP has however been fraught with several challenges which could undermine Nigeria's nation building process. A major problem is that relying primarily on a 36-State structure and local government area as criteria for representation of the various sections of the population fails to effectively accommodate other lines of fracture among the population. There is primarily the Muslim-Christian divide and the degree of ethnic heterogeneity that exists in the country has been described as 'confounding' judging by the linguistic and cultural variations within individual states ?°

The United States and the History of Affirmative Action

Affirmative action in the USA has a long history which can be traced to the era of slavery in the late 17th century.³¹ Agriculture was the mainstay of the economy in the southern colonies unlike the northern colonies which focused largely on industrial development. Southern farmers obtained Africans as labourers and domestic servants from Trans-Atlantic slave traders and the local slave agents. However, Africans were treated as slaves and subjected to various forms of oppression. Africans were forbidden inter-marriage with whites and from obtaining any form of education. The inhuman conditions under which Africans were subjected prompted efforts from several humanitarian bodies and Africans towards their liberation. Such efforts began to yield fruit from the latter part of the 18th Century with the North West Ordinance of 1787 which stopped the introduction of slavery beyond the Ohio River.³²

Even with the strides made in the area of legislation, Blacks continued to experience discrimination after this period particularly with the promulgation of segregationist laws which collectively came to be referred to as Jim Crow laws. The laws formalized segregation of blacks from whites in daily social interaction and forbade the common use of public facilities such as buses, trains, schools, telephones and restaurants between blacks and whites.³³ The Dred Scot v Stanford case in 1857 is one example of what Jim Crowism in the U.S. entailed at the time. Scot, an African slave made an attempt to gain his freedom from his white master while in a non-slave state beyond the Missouri Compromise line, but was refused by his master. Although Scot lost his case in court, the quest to end slavery in the northern colonies continued and resistance by southerners to maintain the practice contributed largely to the American Civil War in the 1860s.³⁴

More serious efforts to address racial discrimination were made through legislation enacted between 1868 and 1871 in the 13th, 14th and 15th Amendments. Together, the laws abolished slavery, guaranteed equal protection for all citizens and granted voting rights to all males irrespective of their race or history of servitude.³⁴ Despite the prospects that the "Three ?...onstruction Amen...•.cr.ts bore for thcemai-.crr./...on o:'A:r:ca:i>, through the judicial system Whites sought other ways to oppress Africans. As an example, the Supreme Court permitted the separation of facilities between Whites and Blacks as long as they offered the same standard of service in the Plessy v Fergusson case in 1896".³⁵

Such court rulings further fueled the struggle to end discrimination by Blacks, and to articulate their grievances, they formed associations such as the National Association for the Advancement of Colored People (NAACP), the Congress of Racial Equality (CORE) and various student bodies. Their efforts culminated in the Civil Rights Movement in the 1950s and some gains were made in the efforts to address racism. In the *Brown v Board of Education of Topeka* 1954, the doctrine of 'separate but equal' was regarded as unconstitutional in the school system.³⁶

The promulgation of Executive Orders under various administrations in the past provided a framework for the adoption of AA in the U.S. As a term, it was first used by J.F. Kennedy in 1961 but it was under President Lynden B. Johnson's administration that more profound commitment towards the elimination of discrimination was expressed. With the Civil Rights Act in 1964 and the Voting Rights Act in 1965 states were mandated to stop demanding that persons pass reading test before voting. With the Civil Rights Act of 1968 discrimination in the selling and renting of apartments and houses was also banned.³⁷ With the Executive Order 11246, it became compulsory for government contractors to employ applicants without regard to race, creed, colour or national origin. The Order reaffirmed government's commitment to providing equal opportunities for disadvantaged minorities who continued to face rejection in all spheres of public life. Other Executive orders focused on punitive steps to be taken to ensure compliance. For instance contractors run the risk of the cancellation of their contracts and could be barred from being awarded contracts in the future if they failed to take affirmative action that will reflect racial and gender equality.³⁸

In terms of implementation, the American government under various administrations focused attention on employment and the education sector. Just like the Nigerian government, the U.S. government created specific departments to promote AA. One such office is the Department of Labor's Office of Federal Contract Compliance (OFCCP) vested with powers to develop clear goals for the implementation of AA. The OFCCP is supported by other government agencies such as the Equal Employment Opportunity Commission (EEOC) which treats complaints relating to discrimination in employment.³⁹

Similarly, the implementation of AA has continued to generate heated debates and criticisms in the U.S. The debates center on the issue of preferential treatment of minorities which has translated to reverse discrimination because it denies people their individual rights. Besides using a group label to accord privileges to persons while depriving others is raising group consciousness and contributing to racial tension in the U.S. However, Bergman asserted that it is impossible to eliminate racial inequality without raising racial consciousness since the AA is based on "compensatory opportunity" targeted at minorities and therefore amounts to discrimination of Whites.⁴⁰

Comparative Analysis of the AA and FCP Programme and Policy in the U.S. and Nigeria

FCP and AA are similar in terms of the objectives that both governments hope to achieve which is to foster unity among the diverse groups that make up the countries. Both countries have also invested in enforcement structures to ensure effective implementation of AA and FCP particularly in employment and school admission process. Nonetheless, the EEOC in the

U.S. has judicial powers to prosecute employers whenever they violate Title VII of the Civil Rights Act. The Commission receives over 60,000 employment discrimination petitions yearly out of which only 500 are brought to trial.⁴¹ On the other hand litigations by the FCC and individuals have been rare even though the FCC has the powers to prosecute offenders and the negation of FCP in employment, recruitment and promotions in public institutions.

There are however a few cases that can be cited. One is the *Badejo v Federal Ministry of Education* in 2000. The girl's father, Mr Badejo contested the failure of the ministry to offer his daughter admission into one of the Unity Schools in the country even though she passed the examination. The court ruled that though Miss Badejo passed the examination was based on "the method of administering the Federal Government College rather than a denial based on any other ground".⁴²

In 2014, Olisa Agbakogba a Nigerian lawyer and Human Right activist filed public interest litigation against the federal government contesting the use of quota system as basis for admission policy into public schools in Nigeria. He also contested the fact that the cut-off marks for admission varied from one state to another with gender, ethnicity and state of origin as some of the criteria considered by the Ministry of Education. However, the Federal Government of Nigeria maintained that school admission policy was so structured "to foster peace, unity and amicable coexistence by allocating spaces to those states that are marginally ahead and those marginally behind". Besides a uniform cut-off mark would mean that some states would not have any students in the Unity Schools.⁴³

The following variation in the cut-off marks allocated to each of the states out a total mark of 200 as at 2013, may have contributed to contestations by opponents of FCP especially as it relates to admission into public schools. The approved cut-off mark for Lagos State was 133, 127 for Osun State, 133 for Ogun State, 139 for Anambra State, 130 for Abia State, 138 for Imo State, 97 for Cross River State, 72 for Bayelsa State, 45 for Bomu State 2 for Yobe, 3 for male and 11 for female in Taraba, 4 for Zamfara, and 9 for males and 20 for females in Kebbi. 9.44 Justice John Tsoho who delivered judgement on the suit filed by Agbakoba noted "that such disparities in admission requirements into the Federal Government Colleges were against the spirit of Section 42(1) of the 1999".⁴⁵

The school admission policy in Nigeria is therefore lopsided but even worse is that the implementation of the FCP is often abused by the ruling elite in Nigeria. According to some respondents, the names of children of top government officials always appear on the admission list of Unity Schools. For a vast majority of Nigerians however admission is purchased by parents and wards for children who may have scored the cut-off marks but are denied spaces. In other words while the admission list may represent an equitable distribution of candidates based on a 36-state structure, in reality, it is a compilation of names of relatives and acquaintances of top government officials and those who could afford to pay for the admission.⁴⁶

On the other hand the problems associated with the AA in the U.S. differ in many ways. To begin with AA is mainly quasi-voluntary and lacks specific guidelines for its implementation. Because of its equivocal nature some states such as California and Florida have banned AA in considering admission of students into public schools. The lack of uniformity in the guidelines for

AA has also accounted for the discretionary approach towards its adoption by individual states and this has consequences on the degree of success achieved towards reflecting diversity in American public institutions. Lilia M. Garces noted that the average proportion of students of color (Blacks and Latinos) across all the fields of study dropped by 12% in states such as Texas, California, Washington, and Florida where AA was banned in collegiate admission.⁴⁷ To illustrate other areas of inconsistency arising from the variation in the adoption of AA, the Supreme Court ruled that assigning racial and gender quota's for collegiate admission was unconstitutional in *Gratz v Bollinger* in 2000 and in the *Grutter v Bollinger* in 2003 it ruled "that AA in school admission is constitutional if it treats race as one factor among many"⁴⁸

While the implementation of AA is quasi-voluntary in the U.S. that of FCP is subject to arbitrariness of political leaders at various levels of administration that it almost amounts to inconsistency as is the case in the U.S. A number of examples will show that recruitment, promotion and appointment of persons into public institutions was always determined by the leadership rather than the FCP. For instance, a Yoruba association based in Europe with its chairman as Mr. Wole Arisekola observed that the Yoruba were excluded in key political positions under the Goodluck Jonathan administration.⁴⁹ The claim by the association is supported by the table below.

CONTROL OF KEY POSITIONS IN GOVERNMENT

S/N	OFFICE	NAME	GEO-POLITICAL ZONE
1	President	Goodluck Jonathan	South South
2	Vice President	Arc Namadi Sambo	North west
3	Senate President	David Mark	North Central
4	Speaker of the House of Representatives	Alhaji Aminu Tambuwal	North West
5	Chief Justice of the Federation	Jusice Aloomu Muhtar	North West
6	Deputy Senate President	Senator Ike Ekweremadu	South East
7	Deputy Speaker	Hon. Emeka Ihedioha	South East
8	Ag President of Court of Appeal	Hon Zainab Bulkachuwa	North West
9	Secretary to the Federal Government	Anyim Pius Anyim	South East
10	Chief of Staff to President	Chief Mike Oghiadome	South South
11	National Security Adviser	Sambo Dasuki	North West
12	Head of Service of the Federation	Alhaji I.B Sali	North East

Under the same administration, a group known as International Society for Civil Liberties and the Rule of Law (Intersociety, Nigeria) decried the total exclusion of the Igbo of the South East on the list of police officers promoted to high ranking positions under the leadership of M.D. Abubakar, Inspector General of Police. In a letter addressed to the president, the group noted among other lapses in recruitment and promotions in the police force that no Igbo was included in the list of 24 serving AIGs in 2013.⁵¹

Similarly the initial list of persons to be considered for ministerial positions released by the Buhari administration attracted condemnation from the Igbo of South East. It was during this period that the demand for Biafran Republic gained steam with several clashes between government and protesters in Onitsha and Asaba.⁵²

Another case in sight is the 2015 secret employment scam by the Central Bank of Nigeria (CBN) during which a recruitment exercise was conducted without a prior advertisement in at least two national dailies as mandated by the FCC. The FCC however offered a defense for CBN's action which revealed that waivers could be granted to institutions empowering them to employ staff without prior advertisement. Just like the Unity School, the CBN list for that recruitment exercise included children and relatives of top government officials and politicians. It can be deduced from the various examples cited that a major problem with achieving the objective of FCP remains the arbitrary abuse of powers by political leaders which continues the cardinal rule that the work force in Nigeria's public institutions must reflect federal character where necessary.⁵³

Despite the challenges associated with the implementation of AA and FCP, there is much to show that the objectives of both governments are gradually being met. In a related study published in 2012, Foreman Jnr. provided data which indicated appreciable progress towards balancing inter-racial disparities in the U.S. He noted that "since 1967, the percentage of Black households earning more than \$75,000 a year has more than tripled, from 5% to 18% today. Also the percentage earning \$50,000 or more a year has doubled from 17% in 1967 to 33% in 2012."⁵⁴

In the same vein, the FCC is building greater public confidence in FCP through its systematic collection of data on the composition of the various ethnic groups in the countries bureaucracies. This, according to Rauf, "is an important achievement, for we can now have an informed discussion of the problem without buying into partisan ethnic or political agendas"⁵⁵

Conclusion

The analysis has illustrated that AA and FCP have implications for nation building since the policies aim at the inclusion of diverse segments of their population in public institutions. The U.S with its economic and military strength feels less threatened than Nigeria in ensuring that it remains a composite state programmes such as the AA is still necessary to eliminate racism in America's public life

Again discrimination against Blacks has a long history in the U.S. that cannot be wiped away in a few years of experimenting with the AA programme. The burgeoning literature on "New Jim Crowism" by American authors is suggestive of the prevalence of racism in America albeit in more subtle ways compared to the past. The criminal justice system is still characterized

by racial profiling in which individuals are the target of law enforcement personnel because of the colour of their skin. Several studies also illustrate that mass incarceration of Blacks from low income families is on the increase in the U.S. Michelle Alexander indicated in her study that even though Blacks and other minorities made up only about 21 % of drivers in Maryland they accounted for about 70% of those stopped and searched by law enforcement officers.⁵⁶

But while African Americans may be the worst hit in the country's justice system, mass incarceration represents a huge financial burden on the American government which could be diverted to socio-economic programmes that target minorities and the poor. It is the belief that with AA, poor Whites have been disadvantaged by middle class Blacks. Thus there is need to make programmes such as Disadvantaged Business Enterprise (DBE) which allocates not less than 10% for procurement in transportation to businesses owned by minorities more inclusive. Focusing on the elimination of poverty has greater prospects for advancing nation building since the poor exists among all races in the U.S.⁵⁷

Transparency and fairness must be treated as sacred rules in the implementation of FCP in Nigeria to elicit broad-based support for the policy. For FCP to be an effective vehicle for nation building, structural weaknesses in the FCC operations that leave room for arbitrariness on the part of its leadership must be reviewed and amended. As an example, the policy of granting waivers to government institutions must be re-evaluated since it is not open to public scrutiny and therefore exclusionary in practice. The Commission's power to prosecute must be widened and this will require more funding and the recruitment of appropriate personnel. In addition, the leadership of the FCC must be rotational so that the Commission exemplifies the model it strives to achieve in other government institutions.

Apart from strengthening the FCC, there is need for policies that aim at remedying disparities inherent in Nigeria's education sector rather than lowering standards to reflect ethnic diversity. Such a policy cannot be retained *ad infinitum* if Nigeria desires to meet its millennium developmental goals and compete favourably among the comity of nations. There is therefore an urgent need for more investment in educationally disadvantaged states (EDS) matched by a greater commitment by the supervisory departments of the education ministry to ensure effective utilization of the resources allocated for their educational advancement. Such a policy will in turn increase the level of commitment by political leaders of the affected states and serve to erase the impression that slots in Unity Schools are guaranteed to students no matter how poorly they perform.

On the whole, efforts to strengthen the nation building process in both countries must be pursued with greater commitment as nation building like a peace process is not a station but a process. Ibrahim Gambari put this succinctly when he stressed that "nation building is not just a conscious statecraft, not happenstance but more importantly always a woric in-progress; a dynamic process in constant need of nurturing and re-invention"⁵⁸

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