



Getting Along: Managing Diversity for Atrocity Prevention in Socially Divided Societies

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Key Points

- Citizenship, rigorously enforced, is the ultimate legal protection against atrocities; it governs how states treat their people and how citizens treat their state and each other.
- The ways political systems mediate participation and governance can incentivize or discourage exclusionary and identity-based politics and thus exacerbate or guard against atrocity risks.
- Nigeria and South Africa represent alternative approaches to governing political participation. Both are intended to manage diversity and prevent atrocity violence, but have had varied impacts.
- In Nigeria, the creation of states, fixed quotas, mandatory balancing to sustain the so-called “federal character,” “indigene preferences,” and “power shifting” have been used to balance ethnic representation, but these measures have also reinforced oppositional group identities, encouraged identity-based patronage, fostered group-based competition and discrimination, and deepened ethnoreligious divisions and grievances.
- In South Africa, promotion of a nonracial civic nationalism coupled with judicable constitutional guarantees enabled a largely peaceful transition to a democratic post-apartheid political system, though several challenges remain.
- Promoting diversity and political inclusion is a universal challenge, and there are many versions of mixed systems. These need to be studied more comparatively, through an atrocity-prevention lens, with realistic assessments of the advantages and disadvantages of each mechanism or policy and how they apply to the history and culture of each society. There is no one-size-fits-all mechanism to ensure political inclusion; many different structural approaches should be examined.
- Political structures and other approaches to diversity management must be nationally developed and country-specific. The international community should support initiatives that minimize atrocity risk by emphasizing equality, political inclusion and, most of all, citizens’ rights and responsibilities in long-range development and state-building strategies. Global actors should also focus on the implications, including the unintended consequences, of different governance choices for diversity management when engaging with governments in crisis or transition.

Most proposals for preventing mass atrocities and genocide in conflict-affected states tend to focus on externally generated diplomatic, economic, or military interventions. For earlier and more durable long-term prevention, attention needs to be given to internal measures that can make political systems more responsive to diverse constituencies.

Based on the experiences of Nigeria and South Africa, this paper examines how states may promote a greater level of protection against the threat of mass-atrocity violence. An atrocity-prevention lens is used to consider how diversity might be effectively managed through inclusive political processes, institutional mechanisms, and governance policies.

In structuring political participation and processes, the governments of Nigeria and South Africa have taken proactive

measures designed to diffuse intergroup tensions and encourage national unity. Not all of these measures have succeeded in reducing tensions; some, in fact, exacerbated tensions, though perhaps unintentionally. These two cases reveal telling insights and show the need for a wider dialogue, candidly pursued, on atrocity prevention that draws from a broader base of country experiences and comparative research.¹

It is important to note at the outset that the issue of political structuring and diversity management is relevant to all heterogeneous societies. North America, Europe, Scandinavia, Asia, Africa, and Latin America have each experienced episodes of communal or sectarian violence in the last two decades. Yet, importantly, not all societies with racial, ethnic, or religious divisions experience mass atrocities.

Nigeria and South Africa have faced such challenges and have taken different paths to diversity management. Their stories illustrate the benefits, risks, and other consequences that may arise from such efforts. This analysis provides insights that could be useful not only for other states grappling with similar problems but for peace builders, state builders, and countries adopting strategies consistent with pillar two of the Responsibility to Protect framework to “assist states under stress” before atrocity threats and crises develop.²

Comparative Overview

Nigeria and South Africa both defied international expectations about their ability to resolve internal conflict. Nigeria, a country of 158 million people, is the largest and most heterogeneous country in sub-Saharan Africa. It was widely regarded in 1960, the year of independence, as a showcase of African democracy. Yet six years later, Nigeria plunged into a spiral of military coups d'état, ethnic pogroms, secession, and a 2 1/2 year civil war in which an estimated one million people were killed. Ever since, Nigeria has experimented with a number of measures to “keep Nigeria one.” In many cases, while offering some political inclusion, those measures either did not go far enough, lacked clarity, or locked the country into rigid formulas that did not adapt well to local political circumstances.

Today, Nigeria's religious and ethnic divides are growing. There are two armed insurgencies—a violent Islamist revolt led by Boko Haram (“Western Education Is Forbidden”) in the north and an on-again, off-again rebellion in the oil-producing Niger Delta region in the south; flares of communal fighting in the Middle Belt triggered initially by intergroup rivalry over land-use and indigenous rights; and a widening regional socioeconomic gap that is deepening a religious rift between northern Muslims and southern Christians.

Though Nigeria is still a country with great potential and a fast growing economy, its biggest challenge is to maintain national unity in the face of growing inequalities, largely along group lines.

By contrast, observers were pessimistic about apartheid in South Africa, sub-Saharan Africa's most advanced economy, with a population of 50 million people. Apartheid, a system of cradle-to-grave racial segregation that was formally adopted in 1948, enshrined white minority rule in a country that was 85 percent black, Coloured, and Asian. Apartheid in South Africa was often depicted as the root of an intractable conflict headed toward a race war. Few believed that the whites would give up power without a fight. Decades of street violence in the black townships, numerous black uprisings that were brutally repressed, armed liberation movements, a neo-Nazi pressure group, and a defiant government with overwhelming power combined to lead observers to conclude that whites would continue to suppress the antiapartheid movement indefinitely. Instead, the world witnessed a negotiated settlement that resulted in the 1994 election as president of Nelson Mandela, once labeled a communist terrorist. A nonracial democracy was ushered in without outside military intervention, a peacekeeping mission, third-party mediation, or a post-settlement violent backlash from die-hard rejectionists.

While South Africa has been duly credited for this great success, its experience underlines the dynamic nature of atrocity risk. The resounding success of the South African political transition did not mark an end to the struggle over racial, ethnic, and class divisions any more than the end of the American Civil War ended lingering racial prejudice in the United States. The main challenge the South African government faces two decades after the legal abolition of apartheid is meeting the economic and political expectations of a population still divided by racial, class, and ethnic inequalities. Recent incidents show that racial feelings can still be explosive.³

The Nigerian Approach: Balancing Group Identities

Nigeria's cultural diversity has always been one of the country's proudest characteristics. It contains at least 250 ethnolinguistic groups, approximately half of which are Muslim, 40 percent Christian, and the remainder adhering to traditional beliefs, although there is often a blending of religious practices among some groups. Three main ethnic groups have dominated politics historically: the northern Hausa-Fulani, who are mainly Muslim; the Yoruba in the west, who are Christian and Muslim; and the Igbos in the east, who are largely Christian. Roughly 40 percent of the population belongs to other minority groups.

The country's first decade of independence witnessed mass atrocities precipitated by a hotly contested election in the Yoruba-dominated Western Region that led to a 1966 coup by Igbo junior army officers. The coup makers overthrew the elected northern-dominated federal government, ostensibly to eliminate corruption, and they killed high-ranking Muslim political and religious leaders. The coup was seen as an ethnically based Igbo plot to take over the country and was subdued by the federal army, also then headed by an Igbo, but a pronorthern countercoup followed six months later. This triggered widespread pogroms against Igbo civilians living outside their traditional eastern homeland, thousands of whom fled to their places of origin.

A Middle Belt Christian general was eventually selected as a compromise candidate to run the military government, but this did not stop the momentum toward fragmentation. In 1967, rebel Igbo leaders declared the independence of the breakaway state of Biafra (the former Eastern Region), which comprised not only Igbos but several minority groups in the oil-rich Niger Delta area that had traditionally resented Igbo domination. As the federal army overran the Biafran enclave in 1970, there were widespread fears of genocide and recriminations, but general discipline was maintained, and the federal army retained control.

The speed and depth of reconciliation after the civil war was remarkable. Based on the government's "no victors, no vanquished" policy, Igbo rebel leaders who had fled were allowed to return to the country without being put on trial. Odumegwu Ochukwu, who headed the rebellion, lived in Nigeria and participated in politics until his natural death in 2011.⁴ No one was punished for the pogroms or put on trial for leading the rebellion. There was no Truth and Reconciliation Commission to delve into the causes of the civil war, heal war wounds, or provide a record of what happened to civilians. Nor was there any prosecution of perpetrators of the pogroms that had led up to the war. Igbo soldiers who had been part of the rebel force were allowed back into the federal army, and Igbo property that had been held in escrow by the federal government was given back to the original owners. At the end of the war, the country focused on the economy, which rebounded quickly from the rise in world oil prices and increased production, allowing instantaneous windfall profits that were used to promote reconciliation. While these policies avoided recriminations immediately after the civil war, they had a longer-term effect of fostering a culture of impunity and pay-offs that continues to undermine adherence to the rule of law today.

Moreover, postwar reconciliation did not lead to long-term stability. The next three decades were years of political turmoil marked by military rule, except for

the period from 1979 to 1983. Civilian rule returned in 1999, with the election of a Yoruba former general who had led the military onslaught into Biafra. By then, however, unrest had broken out in the oil-producing areas of the Niger Delta, the part of the former Biafran region inhabited by minorities. In 1995, the military's execution of Ogoni environmental activists spawned an armed revolt in the Niger Delta. Violence raged in the region until a general amnesty was introduced in 2009, which lured many of the rebellion's leaders to the government side with financial inducements and offers of job training. However, without economic development and a political settlement, the deep-seated grievances in the Niger Delta that triggered the insurgency continue to fester.

Both the Biafra war and the Niger Delta insurgency shaped the way Nigeria has managed diversity. Its approach is to maintain a balance of power among the major groups in a federal system. Four measures in particular have been utilized: (1) the creation of more states, (2) the adoption of the "federal character" principle in federal appointments, with a corresponding principle of "indigene preference" at the state and local levels, (3) a requirement by the People's Democratic Party, the dominant political party since the return to civilian rule in 1999, that party nominees to the presidency be selected based on the practice of regional rotation (also sometimes called "zoning" or "power shifting") in which candidates alternate between the north and south, and (4) a constitutional provision requiring a presidential candidate to capture a majority of the popular votes nationally, plus at least one-quarter of the votes cast in two-thirds of each of the states.⁵

These measures were intended to strengthen federalism, encourage unity, and promote political inclusion of ethnic, religious, and regional groupings. Yet, as will be shown, group grievances mounted.

Creation of States

Initially, the creation of states was a device to serve the political aims of the ruling group. At independence in 1960, Nigeria had three regions that reflected the dominance of the three largest ethnic groups. Each region had its own minority populations, which were given little to no political recognition in the original federal system. But in 1963, the northern-dominated government created a fourth region out of the Yoruba-dominated Western Region to divide the political opposition. In 1967, when the country was on the threshold of civil war, the "regions" were changed to "states," and the four regions became 12 states to undermine the drift toward separatism by the Igbos. The 12-state structure was basically a war strategy designed to win the support of minorities in the east.

Once the precedent was set to create states based on ethnicity, however, more groups agitated for their own states. The federal government saw this as an opportunity to further undermine separatism. By subdividing existing states into smaller units, there would be more than one state per ethnic group. That meant that for revenue allocation, federal elections, government appointments, employment, contracts, and other federal benefits, Igbos competed with other Igbos, Yorubas with other Yorubas, and so on, making it difficult for any ethnic group to consolidate secessionist sentiment within one territorial area, government agency, or base of political power. The number of states climbed to 19 in 1976, 21 in 1987, 30 in 1991, and 36 in 1996, spawning a proliferation of bureaucracies, patronage, and local claimants for oil revenues. After the civil war, fiscal allocations were distributed according to a formula that took into account several factors, including need, derivation of resources, and population density. Allocations flowed directly from the central treasury to state governors, who were supposed to distribute funds to local governments in an effort to create fiscal federalism. However, there was little transparency, no formal accountability, and payments were often made off the books.

Rather than strengthen federalism, the creation of states opened new opportunities for the central government to exert control through the power of the purse. It also created a new class of power brokers: state governors and local officials. Competition for public office intensified greatly, especially at the state level, as governors received not only high personal remuneration but state-based statutory revenue entitlements, with little oversight on how the money was spent.

Few states had the capacity to raise their own revenue, so allocations from the central government were critical to the survival of the multistate structure. However, illicit diversion of revenue into private bank accounts vitiated fiscal federalism and created a pattern of political godfathers: former military leaders and business tycoons who used patronage and corruption to keep them and their allies in power.

The lack of economic development and the growth of a wealthy class of corrupt politicians generated public resentment throughout the country. Grievances mounted, largely along group lines. Thus, as a way to ensure political inclusiveness, the creation of states has had mixed results. It appears to have helped the federal government win the civil war by giving self-government to the minority areas of the breakaway Biafra region. However, the unintended consequence was the reinforcement of ethnic, regional, and religious identities

over national identity. People acquired not only new state-based identities but new regional identities from the government's grouping of the 36 states into six geopolitical zones, which roughly correspond to ethnic, religious, and regional clusters.

The Federal Character and Indigene Preference

A second measure adopted by Nigeria to encourage political inclusion was a constitutional provision known as the "federal character" principle, which requires "proportional sharing of all bureaucratic, economic, media, and political posts at all levels of government,"⁶ including at least one minister in the cabinet from each of the 36 states, provided that the ministers are "indigenes" of such states. First enshrined in the 1979 constitution, the federal character principle applies, at least in theory, to parastatals, the armed forces, allocation of public revenue, distribution of public projects, composition of executive bodies, and admission to federal secondary schools and federal universities.⁷ While ensuring representation at the center, the principle has been difficult to enforce in all federal agencies. Moreover, it has been criticized for being undemocratic, disregarding merit, being discriminatory, defining diversity only in terms of ethnicity and state origin without due attention to other social divisions, and favoring politically dominant groups over minorities.⁸

From the perspective of atrocity prevention, the biggest problems develop at the state and local government levels because of the provision that invokes indigenous origin as a basis of representation. The intention was to allay fears of minority groups who thought they might be overwhelmed by the migration of larger ethnic and religious groups into their areas. This meant that both the federal character principle and the proviso regarding indigenes required government appointments to be based on lineage, not competence.

At the state level, implementation has been enforced through the issuance of "indigeneship certificates" by local councilors or traditional rulers. The indigene provision became not an instrument of minority protection but an instrument of discrimination against those who did not belong. One Nigerian analyst concluded that by the 1990s, "the indigeneship certificate [became] . . . a defining document in the day-to-day lives of many Nigerians."⁹ It is, in essence, an internal passport that enforces a bias at the state and local government levels against Nigerians whose ancestors were not deemed to be original inhabitants of that state.

This practice has resulted in the establishment of two classes of citizens, and it has not protected minorities. There is no legal definition of *indigene* in the constitu-

tion, no agreed standard of proof of origin, and no official designation of who makes the determination.¹⁰ The principle was challenged in court on the grounds that it is discriminatory, but the suit failed. Thus, it is legal to deny access to land, jobs, education, political appointments, and even voting rights to those deemed non-indigenes, including those whose families have lived in the area for generations.

The Federal Character Commission, which was established to ensure equity in the distribution of resources and political power, has likewise upheld the validity of indigene certificates. In many cases, this means that local authorities can use this power to ensure ethnic majorities in elections. Moreover, it creates a catch-22 situation: an individual who is denied a certificate in one state because he or she is deemed to be a migrant may also be denied a certificate in his or her state of ethnic origin because birth and residence were located elsewhere. Such people could become internally stateless.

The indigene/non-indigene divide has particularly exacerbated violence in the Middle Belt of Nigeria, where, over the past decade, Muslim Fulani pastoralists (non-indigenes) who had traditionally grazed their cattle in the area around Jos, in the Plateau state, have clashed with Christian farmers (indigenes) from minority ethnic groups that predominate in the area. Thousands of people have been killed and hundreds of thousands displaced. What started out as a land dispute between herders and agriculturalists has escalated into religious rivalry with implications for the whole nation.

Indigeneship has also triggered deadly conflict in local elections, which determine who gets the power of certificate distribution. In 2011, for example, the governor of one state (Abia) fired all non-indigenes on the state payroll after he was sworn into office. The same thing occurred when two states were created (Anambra and Imo). Here there was double discrimination: indigene women married to non-indigenes were fired from the civil service.

On balance, the principle of indigene preference has been misused to distribute patronage to a secure constituency of voters, incentivize discrimination, emphasize ethnic identity over citizenship, and undermine the notion of equal protection under the law.

Zoning

A third measure adopted to ensure political inclusion was instituted by Nigeria's dominant political party, the People's Democratic Party (PDP). Known as "power shifting," "rotational rule," or "zoning," this informal principle has become widely accepted as a

political norm. It urges the rotation of presidential nominations between southerners and northerners every two terms (or eight years) in order to avoid domination by any one group. In many presidential systems worldwide, party nominees for president and vice president try to balance the ticket to appeal broadly to the electorate, but this is usually an informal practice open to various permutations of representation. Nigeria's practice, at least for the PDP, makes this a requirement and defines rotation in terms of the north and the south, words often euphemistically used to mean Muslims and Christians, although both regions are more diverse than the dichotomy suggests.

Zoning has caused succession crises, most recently when President Umaru Yar'Adua, a Muslim northerner, died of natural causes in 2010, before the expiration of his first term. According to the constitution, Vice President Goodluck Jonathan was next in line, but he was a Christian Ijaw from the Niger Delta region. Under other circumstances, it would have been highly unlikely that he would have been nominated by the PDP for the presidency. Northerners disputed the legitimacy of his succession as vice president on the grounds that it would violate the party's zoning rule. Southerners, particularly those from Jonathan's ethnic group, argued that the constitution should supersede the party's zoning rule.

Jonathan became president to serve out the rest of Yar'Adua's term, but the controversy continued throughout the 2011 election campaign after Jonathan was nominated for the presidency by the PDP following intense intraparty lobbying. He won an election that international and local observers declared was one of the cleanest and best-run in the country's history, although hundreds were killed in postelection violence in the aggrieved north, which felt the election had been "stolen."¹¹ The dispute "was clearly a tipping point, with alarms going off in all parts of the country," observed one expert.¹² Although voting patterns were mixed in parliamentary and gubernatorial contests, presidential voting was split sharply along north/south lines, with Jonathan capturing almost the whole of the predominantly Christian south and Middle Belt, and the main opposition party capturing the predominantly Muslim north.

The northern feeling of having been outmaneuvered in the election, together with years of economic impoverishment, has fueled the northern-based Islamist Boko Haram insurgency. The public does not support the Islamic sect and deplores its tactics. However, the insurgency's message of protesting corruption, decrying the lack of justice, and criticizing political elites who disregard the grassroots is in sync with popular sentiments and plays on social, economic, and political elements

generated by the zoning dispute. Following the 2011 presidential election, allegations arose that northern politicians were financing the group in order to destabilize the government in revenge. In fact, a former national security adviser, Owoye Andrew Azazi, blamed the PDP's zoning policy directly for the Boko Haram insurgency, later clarifying his statement to say that the problem was "greedy politicians who insisted that no one else can rule Nigeria after the demise of President Umaru Yar'Adua, except someone from the same region."¹³ He was dismissed by Jonathan within weeks of making that statement, but the allegation was revealing. The party's rotational principle was designed to be inclusive, but it has had a divisive impact that continues to deepen tensions, foster animosities, and trigger atrocities.

Presidential Election Requirements

Another measure that was designed to discourage ethnic voting, prevent secessionist tendencies, and avert violence was a constitutional formula for declaring a presidential candidate a winner. It requires that, in addition to the majority of the popular vote, a candidate must receive one-quarter of the votes cast in each of two-thirds of the states plus the federal capital.

In theory, this provision appears to ensure the election of a government based on a broad national mandate. In practice, it has encouraged political parties to pressure local party agents to record winning votes in their areas at any cost, including rigging, to meet the necessary thresholds. It has encouraged electoral fraud, undermined the political legitimacy of presidencies and governorships, and generated public cynicism about democracy generally.

Moreover, as the 2011 election and others have shown, it has neither eliminated ethnic or religious voting nor avoided political controversy. When Nigeria had 19 states, this formula created a succession crisis over arithmetic calculations: Does two-thirds of 19 equal 12 or 13 states in which the candidate had to win 25 percent of the vote? The formula only works when the number of states is divisible by three, when there is a healthy margin of victory in each of them and, most importantly, when there is public confidence in the integrity of the election process. Close elections have resulted in highly contested results, often leading to mass violence.

The South African Approach: Creating Civic Nationalism

Post-apartheid South Africa's approach was diametrically opposed to Nigeria's. It stressed civic nationalism rather than ethnic balancing as the way to encourage unity. The South African constitution does not recognize or accept race, ethnicity, or religion as legal criteria for political representation, despite the fact that there are multiple racial, ethnic, and religious identi-

ties as well as pockets of unreconciled racism in both the black and white communities. Some groups would have preferred specific legal recognition, especially the Afrikaner and Zulu populations. However, most African ethnic groups turned to nonracialism as a protection mechanism for ensuring equal access to the political system rather than lobby for fixed ethnic representation. Their positions may have been different if South Africa resembled the more common experience of a marginalized minority group agitating for freedom instead of a marginalized majority, but the common experience of living under a white-run system of apartheid for decades created a bond of unity that, by and large, transcended ethnic identity.

To be sure, there were blacks who collaborated with the repressive system by working in the security forces, acquiescing to the "homeland" system of the bantustans, and playing the ethnic card in asserting opposition to the African National Congress (ANC). These divisions accounted for a considerable amount of the so-called black-on-black violence in the years prior to the collapse of apartheid, and it was later revealed that the South African government had stoked the flames of ethnic rivalry by supplying military support to Zulu traditionalists. Ultimately, however, the divide-and-rule strategy failed.

Despite the blending of race and ethnicity in the new political system, nonracialism is its dominant theme. The government supports affirmative action policies to further black economic advancement; political parties are constituted largely, though not exclusively, along racial lines; and there are 11 official languages based on the main ethnic groups. The political system, however, allows this balance to change over time, and the constitution locks in equal legal rights and political access for all citizens, regardless of race, ethnicity, or religion.

Major differences in the history and composition of the two countries account for their disparate approaches. Nigeria was forged into one country by the British in 1914. It peacefully gained its independence from Great Britain in 1960, and there was no liberation war and no settler community. Its population is larger and its diversity more complex than South Africa's. As a sovereign and self-governing state, the Union of South Africa is older. It was created as a unified entity in 1910 and granted sovereignty as a self-governing territory in 1934. However, while racism pervaded the society prior to the adoption of apartheid in 1948, the policy of legal separation of the races, with the ultimate goal of racial partition, became a form of internal colonialism that was not thrown off until 1994. In that sense, it is a much younger polity than Nigeria, which has exercised universal adult suffrage since 1959. South Africa has done so only since 1994.

In Nigeria, ethnicity, not religion, had been the major dividing line since independence, but most of the 250 language groups lived in harmony until a series of events, beginning with the outbreak of election violence in the former Western Region in 1965, followed by the 1966 military coup, ethnic cleansing of Igbos in 1967, and the ensuing 1967–1970 civil war. Religion did not emerge as a major divisive force in Nigeria until it became clear that the growing disparities in development between the north and south were eroding the north's power base and economic well-being. Communal conflict over land use spiraled into Christian/Muslim rivalry and election rivalries. Thus, for Nigeria, the challenge was to create ethnic and religious peace by balancing the multiple identity groups vying for wealth, status, and power.

Race has been the major, albeit not the only, dividing line in South Africa. That country's challenge was to abolish a deeply embedded racial system and open existing institutions so that all could participate. The South African answer was not to drive whites out of the country (though some in the Pan-African movement advocated it), or balance whites and blacks through power sharing or quotas. Rather, South Africa sought to redefine the state as an entity that belonged to all its citizens, irrespective of racial or ethnic identity. As explained by Heribert Adam, professor emeritus of political sociology at Simon Fraser University,

The ideology of nonracialism rejects an ethnic nation in favour of a civic nation, based on equal individual rights, regardless of origin, and equal recognition of all cultural traditions in the public sphere. The civic nation is based on consent rather than descent.¹⁴

Nonracialism had been the mantra of the ANC, the leading antiapartheid organization, and it was enshrined in its 1955 Freedom Charter. It was also the deeply felt philosophical commitment of its charismatic leader, Nelson Mandela. Once negotiations commenced in 1990, even the ruling regime reversed its position on nonracialism, the polar opposite of apartheid. The government recognized that nonracialism could be the way for whites to survive in a black-majority-ruled state. Thus it also became the goal of the dominant white political party, the National Party.

Four mechanisms were adopted in pursuit of this goal.

Elite Bargains with Public Participation

Negotiations for a post-apartheid political transition were initially supposed to be bilateral, between the ANC and the National Party. However, after protests, talks were expanded to be more inclusive of other par-

ties to avoid potential spoilers. That had the effect of prolonging negotiations and opening them up to numerous obstacles and stalling tactics. Many of the provisions of the settlement were openly debated by the population; in the end, broader representation gave the outcome more legitimacy. The outcome included several provisions that were consistent with the goal of civic nationalism, smoothing the way for citizenship to supersede narrower identities. These included a liberal constitution that guaranteed judicable individual rights for all citizens; a mandatory five-year coalition government between former enemies; the preservation of the civil service, with blacks working alongside whites and taking over positions through natural attrition; and the retention of the military, which integrated former combatants from the liberation movements. Several white cabinet ministers and judges continued in their positions. South African business continued as usual, and corporations avidly recruited blacks to top executive and board positions.

These measures provided continuity in the midst of dramatic political change, a rare instance in which a radical power shift actually reduced the risk of atrocities, rather than increased it. This is not to say that the transition was entirely peaceful, as many observers assert. Approximately 14,000 died in political violence between 1990 and 1994, when Mandela was elected president.¹⁵ But things could have been much worse had a race war broken out. Instead, what everyone saw as an inevitable shift in power was managed well because all sides recognized the existing economic, demographic, military, and political realities at the time, and because a tipping point had been reached with the international community imposing smart economic sanctions on the South African government, beyond oil and arms embargoes, that were linked to legal reforms and the start of good-faith negotiations.

Significantly, the result did not divide power along fixed ethnic or racial blocks. Rather, confidence in the fairness of the system rests not on the accessibility or likelihood of any one group capturing public office, or rotating in office, but on the durability of the constitutional freedoms and institutionalized protections that allow their interests to be represented nationally no matter who governs.

Although inequality, unemployment, an inferior educational system, and other crippling legacies of apartheid continue to plague the country, South Africa has become an emerging market and a constitutional democracy that has successfully managed peaceful leadership succession in post-Mandela elections. There have been concerns about the political erosion of these pacts—with government criticism of the press, civil society, and the judiciary—and about a radicalizing

youth and restive labor unions. Time will tell whether these structural measures will last, but the bargains struck in the early 1990s have served the country well for nearly two decades.

The Constitutional Court

One of the most innovative institutional mechanisms introduced in South Africa to instill confidence in the post-apartheid constitution was a new Constitutional Court. Established in 1994 as an independent body, the court consists of 11 justices appointed by the president after consultation with Parliament, each of whom serves a 12-year term. It is unique in that (1) its authority supersedes that of all other courts, including the Supreme Court of Appeals, which rules on all matters other than the constitution, (2) it shifts the center of power in the political system from parliamentary supremacy, which prevailed under apartheid, to judicial supremacy with its rulings binding on all other organs of the state, including Parliament and the party that controls it, and (3) it is charged with defending and upholding the Bill of Rights, especially specific individual rights inserted into the 1996 constitution.

The Constitutional Court is the cornerstone of South Africa's democracy, the ultimate check on political power, and the legal guardian of civil rights for all citizens. The court was created to ensure that the bargains struck during the negotiations to end apartheid were upheld after elections based on a universal franchise—reassuring minorities, including whites, that their interests would be judicially protected.

The Truth and Reconciliation Commission

Many conflicted societies have struggled with the question of how to come to terms with past atrocities without incurring more retribution. In South Africa, some advocated Nuremberg-type trials, but that would have killed any chance of a peaceful transition. Others simply wanted to forget the past and focus on the future, giving blanket amnesty to all who had committed human rights abuses, for both the government and the liberation movements, but that would have swept the crimes under the rug, leaving many people with no knowledge about what happened to loved ones who had disappeared during the apartheid era.

After much debate, the Truth and Reconciliation Commission became the path South Africa selected. The objective was not to achieve full justice but to find the truth about what happened during the apartheid era and to promote reconciliation. The commission was not a direct product of the negotiations but came afterward. However, the 1993 interim constitution that preceded the final 1996 version provided for a limited form of amnesty. This helped shape the commission, which was created by an act of Parliament in 1995. It

was given the authority to grant amnesty to anyone who fully admitted his or her part in committing human rights offenses between 1960 and 1994, provided the perpetrator told the whole truth, and the offenses occurred in the context of the political conflict of the time. In this way, both accountability and knowledge were achieved, with an emphasis on the victims rather than the perpetrators. A committee was also established to recommend rehabilitation and compensation.

Not everyone agreed with this approach, and some complained that justice had been unnecessarily sacrificed. In the end, out of 7,112 people who asked for amnesty, 849, or 12 percent, received it. The commission's final report was submitted in 1998, condemning the liberation movements and the government for committing atrocities. Even though some felt that the process was insufficient, there is little question that the commission helped close a chapter in the nation's history and acted as a healing mechanism that allowed the nation to move on.

Leadership

Even in nations that emphasize civic nationalism over ethnic, racial, or religious ties, leadership sensitivity to cultural identities is critical to manage diversity successfully. Such sensitivity must be reflected not only in the personalities of individual leaders but in the policies and practices of the political parties, which aggregate and articulate group interests.

Ultimately, whites and blacks accepted the terms of the new South African political order because their representatives were guaranteed a role in that order. Although some groups excluded themselves by walking out of the talks, negotiations throughout the four-year process were incrementally broadened. There was also political inclusion within the parties. Although Xhosas constitute the majority of ANC members, the party was known for political inclusion of whites, blacks, Coloureds, and Asians in top leadership positions. In addition, during the turmoil that preceded negotiations, a multiracial and multiethnic coalition of ANC-aligned civil society organizations, known as the United Democratic Front, staged massive protests against government reforms that had been introduced by the apartheid government to lure Coloureds and Asians into its camp by giving them limited rights in racially separate parliaments. The tactic backfired. It underscored the necessity for common cause among all nonwhite groups and unified the antiapartheid movement.

The ANC also made some important decisions regarding internal party governance. Except to promote gender equality for women, its leaders specifically rejected proposals to incorporate ethnic and racial quotas or define political factions in terms of identity. Instead,

the party maintains diversity by recruiting representatives from various groups on an informal basis, without fixed formulas.

Another manifestation of leadership sensitivity was the manner in which leaders handled the emotive issue of the national anthem. South Africa had two at the time of the transition: “Nkosi Sikelel’ iAfrika” (“God Bless Africa”), which was the unofficial theme song of the liberation movement, and “Die Stem van Suid-Afrika” (“The Call of South Africa”), which was the apartheid national anthem. Both anthems were sung at the presidential inauguration of Nelson Mandela. In 1997, a hybrid anthem was adopted that blended stanzas from these two songs with stanzas in five of the most widely spoken of the country’s 11 official languages: Xhosa, Zulu, Sesotho, Afrikaans, and English. This practice of addressing diversity culturally, as well as constitutionally, distinguishes the South Africa experience from many other complex societies with identity issues.

Finally, South Africa was fortunate in having exceptional leadership, particularly Nelson Mandela and F. W. de Klerk, as well as the chief negotiators, Cyril Ramaphosa and Rolf Meyer, who were remarkable not only in recognizing the need for compromise but in bringing their polarized constituencies with them. Critically, the flexibility and concessions made on both sides did not entail a loss of group identity but the emphasis on a larger one: South African citizenship. At the same time, policy guarantees were included in the settlement, such as job security for white civil servants until they retired, and promoting black economic empowerment, addressing the specific interests of identity groups.

However, while the institutional foundations of the settlement have taken root, public dissatisfaction is mounting over governance, especially corruption, ethnic favoritism, patronage, crime, youth unemployment, housing, and continuing poverty. Most troubling is the horrific anti-immigrant violence that has broken out since 2008, targeting impoverished African job seekers and shopkeepers.¹⁶ An economic magnet for the rest of the continent, South Africa is estimated to have approximately five million immigrants, of whom about three million are from Zimbabwe. Xenophobic violence has increased as the gap between rich and poor has widened. Labour unrest at platinum mines has also generated violence, when police opened fire on protesters striking for higher wages in 2012.

Conclusions

Nigeria was on the right track in stressing diversity and inclusion, but it needs to do much more. The People’s Democratic Party zoning requirement, which conflicts

with the constitutional succession provisions, and the indigene preference provision should be reviewed to ensure more clarity, equity, and consistency. Protecting the rights of local populations could be better accomplished by invoking residency requirements instead of lineage requirements, allowing labor mobility, and ensuring equal protection under the law. A land court dedicated to resolving land use and ownership rights in the Middle Belt, where agricultural populations vie with migrant herders for farming and pasture rights, would help reduce conflict. Transparent measures to ensure an equitable and fair distribution of central government revenue is needed. Local government needs to be strengthened, and state governments must generate more tax revenue, lessening dependence on the center. Ensuring more accountability in government transactions would reduce suspicions of ethnic favoritism. Presidential election requirements are probably not going to be changed, but if the winning candidate needs to capture 25 percent of the votes in two-thirds of the states, then the integrity and openness of elections must be guaranteed to avoid accusations of rigging and post-election violence.

South Africa “is categorically less unjust and less unjustifiable than it was under apartheid,”¹⁷ concluded one observer, but it, too, needs to do more. Changes need to be made more in governance than in state institutions. Leaders need to reassure the public that every South African will receive equal protection under the law and that the constitutional democracy is working for all, with improved public services and economic opportunities to narrow the gap between rich and poor. More must be done to address public anger against immigrants if South Africa’s pride in establishing a nation based on the rule of law is to have credibility.

Turning to larger lessons, both cases first illustrate the importance of emphasizing citizenship instead of narrow nationalisms in promoting civilian protection in conflicted societies. A culture of pluralism and citizenship is not easy to establish. It must be enshrined legally in the constitution, upheld by leaders, and shown to be fair to all in practice.

This would not entail, as most observers seem to think, a “transition” from primordial identities to “citizens.”¹⁸ In fact, people hold multiple identities all the time. Citizenship, unfortunately, often takes second place in situations of conflict and scarcity. Of course, such identities have to be homegrown and not imposed by elites or outside forces. However, there are ample ways peace builders and national leaders can take advantage of the experiences of other cultures and states that have cultivated citizenship, using education, constitutional law, economic incentives, and political structures to tailor their own societies in ways

that make sense to their particular needs. This would go far to address concerns about the threat of future racial, ethnic, and religious atrocities. Citizenship, rigorously enforced, is the ultimate legal protection against atrocities; it governs how states treat their people and how citizens treat their states and each other.

Second, what counts is not only good governance but fair governance, with less corruption and more efficient delivery of public services. Narrowing inequalities in conflicted societies would go far to reduce the enmity that emerges when one group is seen to be valued more than others. As Heribert Adam noted, “It is group inequality that engenders ethnically perceived conflict.”¹⁹ Consider that in Nigeria, groups lived in greater harmony when the country was poorer, less educated, and less powerful. And in South Africa, narrow nationalisms and class divisions have grown with freedom and greater legal protections.

Third, the models discussed here are merely two approaches to building societies whose peoples get along. There are many others: the melting-pot model of the United States, where citizenship is blended with hyphenated identities (African-Americans, Irish-Americans, Italian-Americans, etc.) that celebrate both the pride Americans take in their country and in their particular cultural heritage; the French model of emphasizing the unitary culture of being French; Asian models, some of which invoke racial or ethnic origin as the root of political citizenship (Japan) or guarantee fixed ethnic representation in the political system (Malaysia); the Lebanese model of assigning political office based on fixed arithmetical formulas; and Latin American attempts to advance the rights of indigenous peoples. Promoting diversity and political inclusion is a universal challenge, and there are many versions of mixed systems. These need to be studied more comparatively, through an atrocity-prevention lens, with realistic assessments of both the advantages and disadvantages of each mechanism or policy.

The international community has seriously neglected this issue. The focus has been on atrocity prevention after violence has erupted, or on early warning signs that often are late warnings, when accumulated grievances are hard to resolve. The most used remedy has been to attempt to hold perpetrators accountable through prosecution. Important as this is, it does not effectively prevent the outbreak of violence; it merely tries to impose justice afterward. More effort needs to be made to support research and education by local scholars and analysts, in collaboration with Western counterparts; more cultural exchanges should be made so policymakers from conflicted societies can see how different models work worldwide; international donors should emphasize equality and citizenship in

their development and state-building strategies; the United Nations and other international agencies working on preventive action should raise the kinds of issues touched on in this paper in their interventions and negotiations, digging down to fundamentals rather than lowering common denominators (for example, in promoting power-sharing agreements without addressing root grievances).

It is critical to note, finally, that the kind of inequality that inspires violence is not limited to material or legal differences alone. Social and political discrimination and the *perception* of unfairness can lead to atrocities when groups feel they are permanently marginalized and have no hope of reversing or remedying the situation. In such situations, people stop fearing their leaders. This appears to be what happened in the recent uprisings in the Middle East and North Africa, and it is what happened in South Africa.

Whether overcoming grievances can best be achieved through civic nationalism or balancing group representation will vary country by country. It is far preferable to experiment with incorporating democratic diversity into the political system early on than allowing tensions to fester. Nigeria and South Africa offer insights on how that may be done, though their approaches represent just a fraction of the mechanisms, policies, and initiatives that are possible.

Endnotes

- ¹ There is a large literature on ethnicity, racism, and other forms of identity, and on minorities, but neither body of work has been linked specifically to peace-building and state-building strategies utilizing an atrocity-prevention lens. A good short guide is Christine Monnier, "Patterns of Racial and Ethnic Inclusion," *Global Sociology*, <https://globalsociology.pbworks.com/w/page/14711239/Patterns>, accessed March 29, 2012.
- ² The Responsibility to Protect framework adopted by the United Nations in 2005 includes three pillars: (1) the responsibility of the state to protect its populations from genocide, war crimes, ethnic cleaning and crimes against humanity, and their incitement; (2) the commitment of the international community to assist states in meeting those obligations; and (3) the responsibility of member states to respond collectively in a timely and decisive manner when a state is manifestly failing to provide such protection.
- ³ Two recent examples indicate that racial sensitivities are still explosive. One is a controversy over a white artist's painting of President Jacob Zuma that depicted him as a Leninist figure with exposed private parts, which enraged blacks. Another is a call by the ANC Youth League to change the constitution to allow land to be expropriated without compensation. The ANC Youth League has also threatened Zimbabwe-type land invasions, which has enraged Afrikaner farmers
- ⁴ Allowing rebel leaders to go unpunished is not unusual in Saharan Africa. Afonso Dhlakame, the leader of Renamo, lived comfortably in Mozambique at the end of its civil war as part of the 1992 peace agreement. White minority leader Ian Smith, who made a Unilateral Declaration of Independence under British rule, sat in Parliament and lived peacefully in Zimbabwe (formerly Rhodesia) after Robert Mugabe became president at the country's independence in 1980. While amnesty for the rebel leaders facilitated peace in these instances, human rights advocates have criticized such settlements because they legitimize impunity. In military changes of government, leaders of former regimes are often assassinated, executed, or exiled.
- ⁵ Another measure was revenue sharing. However, this has been highly controversial. The federal government takes roughly 50 percent of national revenue, the states take roughly 25 percent, and local governments and special accounts divide the rest. The Niger Delta has argued that since it has been more affected by the oil industry, it should get a greater share of revenue than non-oil-producing states. An extra 13 percent was granted to the states in the Niger Delta, but they had been insisting on 50 percent based on the derivation principle. Even with the extra funds, there has been no significant change in development. The drive toward fiscal federalism has been a common issue in political debates and remains unsettled.
- ⁶ Nigerian Constitution, Third Schedule, Part 1, Federal Executive Bodies, C.
- ⁷ Section 157(3), section 197, and section 197(2) of the 1979 Nigerian Constitution. In 1999, the constitution was amended to establish the Federal Character Commission, empowered to oversee and monitor implementation of the federal character clauses. The commission has the legal authority to prosecute the head of staff of any ministry or government body that fails to comply with the principle, but it has never done so.
- ⁸ See Orji Nkwachukwu, "Theories and Practice of Ethnic Conflict Management in Nigeria," lecture at the Department of Political Science and Public Administration, Ebonyi State University, Abakaliki, Nigeria, no date.
- ⁹ Chris Kwaja, "Nigeria's Pernicious Drivers of Ethno-Religious Conflict," *Africa Center for Strategic Studies*, Africa security brief 14 (July 2011): 2.
- ¹⁰ In Nigeria, the term *indigene* does not refer to a single unified community, such as aborigines in Latin America. Instead, it refers to any resident whose ancestors were original inhabitants of a particular community. Regardless of how long they may have been living in the areas, non-indigenes are regarded as migrants who came to the local community recently or whose original ancestors migrated to the area.
- ¹¹ Human Rights Watch reported 800 people were killed in three days of post-election violence in 12 northern states. See Nigeria: Post-Election Violence Killed 880, Human Rights Watch, May 17, 2011, www.hrw.org/news/2011/05/16/Nigeria-post-election-violence-killed-800. Also see John N. Paden, *Postelection Conflict Management in Nigeria: The Challenges of National Unity*, monograph series, George Mason University, 2012.
- ¹² Paden, *Postelection Conflict Management*.
- ¹³ *Leadership*, May 7, 2012, www.leadership.ng/nga/articles/23779/2012/security_chiefs_blame_greedy_politicians_boko_haram.

- ¹⁴ Heribert Adam, "The Politics of Ethnic Identity; Comparing South Africa," *Ethnic and Racial Studies* 18, no. 3 (July 1995): 459.
- ¹⁵ *Ibid.*, 462.
- ¹⁶ Anti-immigrant violence occurred in 2008, with looting and killings. It erupted again in 2009 and 2010, with some rioters reviving the practice of "necklacing," in which a burning tire is put around the victim's neck, burning him alive.
- ¹⁷ Philip Gourevitch, "Unreconciled," book review of Patrick Flanery's *Absolution*, *New Yorker*, April 30, 2012.
- ¹⁸ Many analysts and journalists have cultivated the idea of dropping one identity to embrace another. A recent example, applied to the Arab Spring, is Thomas L. Friedman, "The Fear Factor," *New York Times*, June 26, 2012.
- ¹⁹ Adam, "Politics of Ethnic Identity," 465.

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