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**Conflict and Dispute in Nigeria Between the IFE and the
Modakeke: Prospects for Prevention and Resolution by State.
Protected Self-Determination**

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**CONFLICT AND DISPUTE IN NIGERIA BETWEEN THE IFE AND
THE MODAKEKE: PROSPECTS FOR PREVENTION AND
RESOLUTION BY STATE
PROTECTED SELF-DETERMINATION**

By

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A Thesis submitted in partial fulfilment of the requirements for the award of the degree of
Doctor of Philosophy (PhD) in Law by the University of Westminster, London

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ABSTRACT

This PhD thesis examines the conflict between two Yoruba sub-groups in Nigeria (the Ife and the Modakeke) which has been continuing for more than a century. The thesis assesses the prospects for the resolution of the conflict by identifying the historical, anthropological, social, and legal backgrounds to the conflict. It evaluates, with reference to international and national laws, preventive and resolution interventions and processes that may lead the groups to a form of self-determination. In this form of self-determination, the Nigerian State would grant the Modakeke sub-group independence from the Ife, and internal self-determination for the Ife and the Modakeke. The Nigerian State would continue to be responsible for the protection of the groups by keeping them apart from each other.

The hypothesis of the thesis is that the government of Nigeria should be advised that, the Ife and the Modakeke people, having been in conflict with each other over land, status, and identity issues since pre-colonial times and with the frequency of violent conflict having increased since the end of colonialization, will continue to be in conflict with each other because they have not been effectively separated from each other and to resolve the conflict the groups must be separated. Separation here refers to economic and political separation by means of granting internal self-determination through a Local Government Authority dominated by Modakeke and located in Modakeke occupied land within the Nigerian Federal system; physical separation is not feasible for resolving their conflict in modern Nigeria.

In taking these steps to separate the groups, the government of Nigeria would act so as to ensure separate land rights, and separate economic and political status for each ethnic group relative to the other --primarily by allowing the Modakeke group to have its own local authority, and by providing appropriate monitoring to ensure the continuation of peaceful relations between the two groups so that each can experience a modern, internal economic and political autonomy within the Nigerian State.

The thesis examines the ability of the international community under customary international law and the African Union to intervene so as to require the Nigerian State to carry out their responsibility to protect the Ife and the Modakeke groups from any human right breaches and negative consequences resulting from the conflict. Furthermore, the thesis assesses some aspects of the role of the African Union in putting pressure on the Nigerian government to reach a resolution of the conflict between the two groups.

The ultimate aim of this thesis is to examine the Ife-Modakeke conflict with the primary objective of making recommendations to the government of Nigeria for resolving the conflict. However, as it reflects wider and structural issues, it can partly serve as a case study about conflict resolution in similar disputes. In this way, the study contributes to the effectiveness of resolving the Ife-Modakeke conflict in Nigeria and more widely in Africa.

The main research method used in this thesis is the case study method using archival materials, document analysis, maps, and interviews in Nigeria with clearance from the Ethics Committee of the University of Westminster.

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LIST OF ACCOMPANYING MATERIALS

Interviewee consent forms filed with the University of Westminster only, copies not provided with the thesis.

Interview audio recordings lodged with the University of Westminster only.

Transcript of Ife and Modakeke interviews in a separate bound volume provided.

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DECLARATION

I declare that all the material contained in this thesis is my own work and it has not been submitted for the award of any degree.

Signed:

Date:

ABBREVIATIONS

ADR- Alternative Dispute Resolution

Africa Charter- Africa Charter of Human and People's Rights

AU- African Union

BBC- British Broadcasting Corporation

BCE- Before the Common Era

CSO- Colonial Secretary's Office

Ed- Edited

FG- Federal Government

ICISS- International Commission on Intervention and State Sovereignty

ICJ- International Court of Justice

NAIL- New World Approach to International Law

NA- Native Authority

NATO-The North Atlantic Treaty Organization

NGO- Non-Governmental Organisation

NLR- Nigeria Law Reports

No.- Number

NWLR- Nigeria Weekly Law Reports

P.- Page

R2P- Responsibility to Protect

TWAIL- Third World Perspectives on International Law

UN Charter- United Nations Charter

UN- United Nations

UNGA Res- United Nations' General Assembly Resolution

USA- United States of America

Vol.- Volume

SCR- Supreme Court Reports

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1. CHAPTER ONE: INTRODUCTION

“Often, as the State works to address the [conflict] situation, another layer of conflict is created, and the people remain in perpetual circle of violence.”¹

1.1 Background to the Study

One of the major challenges in the Republic of Nigeria² is preventing and resolving conflicts between different groups of peoples living in close proximity to each other within the territory of Nigeria. This thesis examines the conflict between one such pair of groups,³ namely, the Ife and the Modakeke, whose conflict (sometimes violent conflict) has endured for over one century.

Long before the independence of Nigeria from Britain in 1960, the territory, of what is now modern-day Nigeria, witnessed inter-group conflicts between people groups based on various long-standing rivalries.⁴ Many of these conflicts included periods of violence, and the pattern of conflict and violence has not been eliminated following independence leading to ongoing disastrous effects in many cases.⁵ Groupson-Paul has observed that, between 1999 and 2003 alone, Nigeria witnessed fifty-three major civil disturbances in the form of ethno-religious and other communal clashes between groups.⁶ Some of the group conflicts that have plagued Nigeria in the past include the Aguleri-Umuleri of Anambra State, the Tiv-Jukun of Benue and Plateau States, the Junkun-Chamba of Taraba State, and the Ife-Modakeke conflict in Osun State of Nigeria.⁷

Efforts at resolving group conflicts in Nigeria have led to several initiatives by successive governments of Nigeria that have been implemented since independence. One such initiative

¹H. Abdu., *Clash of Identities: State Society and Ethno-Religious Conflicts in Northern Nigeria* (Dev Reach Publishers, 2010) p. 193

² In this thesis, the ‘Republic of Nigeria’ is often referred to as the ‘Nigerian State’ with capital “S” or as the Federal Government. See Appendix 15 for further explanation.

³ Groups as used in this thesis refers to a people united by common culture, tradition, or sense of kinship. See Appendix 15 for a more detailed definition of groups and reasons for its usage in this thesis.

⁴ T.S Osinubi & O.S Osinubi., ‘Ethnic Conflicts in Contemporary Africa: The Nigerian Experience’ *Journal of Social Sciences*, vol. 12, 2006, p. 101-114 [108]

⁵According to the report of the National Emergency Management Agency in Nigeria, 676,975 people have been internally displaced as a result of conflicts. See the Report by the Director General of the National Emergency Management Agency (NEMA). Online: <http://nema.gov.ng/nigeria-idps-stand-at-743-062-in-september-2014>

⁶ O. Groupson-Paul., *Ethnic Conflict as a Threat to Nationhood in Nigeria. National Conference in Nigeria Under Democratic Rule 1999-2003* (Department of Political Science, University of Clonn, 18-20 August, 2003) p. 2427

⁷This list is not exhaustive of the many conflicts in the regions of Nigeria, such as the Niger-delta region. There are constant struggles for resources control, and there have been recent religious terrorist attacks in the North of Nigeria by ‘Boko Haram’. J.O Arowosegbe., ‘Ethnic Minorities and the Land Question in Nigeria’ *Review of African Political Economy* vol. 43. no. 148, 2016, p. 260-276

is the economic and political separation of groups by creating regions, states,⁸ and Local Government⁹ Areas.¹⁰ These initiatives have often been applied at the state¹¹ level to end conflicts arising from majority-minority discrimination claims by some groups living within a state. This thesis examines discrimination and other complaints in the struggle by the Modakeke people for economic and political separation from the Ife people. This is known as the Ife-Modakeke conflict, and it is one of the longest-running group conflicts in Nigeria. Irrespective of the extent to which initiatives have been applied in the regions and states, there appears to be a commonality of objective of such initiatives, namely; the prevention and resolution of group conflicts and the prevention of further outbreaks of violence between the Ife and the Modakeke. The resolution of the underlying Ife- Modakeke conflict is the focus of this study.

The Ife and the Modakeke groups belong to the south-west of Nigeria under the broader Yoruba group.¹² The Yoruba are one of the three major language ethnic groups in Nigeria. They are mostly in the states of Ondo, Osun, Lagos, Oyo, Ogun, and in parts of Kwara state of Nigeria.¹³ The Yoruba can be found in other parts of the world such as in the Republic of Benin, the West Indies and South America; but, according to Atanda, the Yorubaland of Nigeria is the “traditional homeland of the Yoruba people.”¹⁴ The Yoruba speak a common language- the Yoruba language, with variations of dialects. Although the other Yoruba groups such as the Ife, Ondo, and Ekiti bear very great similarities in terms of marriage rituals and language, the Oyo are very different from them in these aspects.¹⁵ In pre-colonial times, the Ife mostly practised traditional African religion,¹⁶ but in about the 18th century the Oyo

⁸ In this thesis, states refer to the second tier (an organ) of government recognised by the Nigerian Constitution 1999 and not to the Federal Government. It is preceded by the lower case ‘s’ See Appendix 15 on definitions

⁹ In this thesis local government refers to political administration at the grassroots, where the people groups are participants in the local authority of their own affairs. See Appendix 15 on definitions.

¹⁰ O. Otite., *Ethnic Pluralism and Ethnicity in Nigeria*. (Shaneson Ibadan, 1990) p. 252

¹¹ In this thesis the sovereign State of Nigeria is preceded by the capital letter “S” while constituent parts of the greater State will be denoted with small letter “s” because the 36 states in Nigeria do not meet the requirements of Statehood in international law by virtue of Article 1 of the Montevideo Convention on the Rights and Duties of States, 1933. Available online: Council of Foreign Relation <http://www.cfr.org/sovereignty/montevideo-convention-rights-duties-states/p15897> and Article 4(1) of the Charter of the United Nations and the Statute of the International Court of Justice, 1945. Available at treaties.un.org/doc/publication/ctc/uncharter.pdf

¹² Erhagbe puts the number of ethnic groups in Nigeria at 400 even though there are only three major language ethnic groups, the Hausa-Fulani, the Yoruba and the Igbo. See E. Erhagbe., ‘Ethnicity in the Matrix of Peace and Reconciliation in Nigeria’ *European Scientific Journal*, vol. 8 no. 16., 2012, p. 82-94 [85]

¹³ J.A Atanda., *An Introduction to Yoruba History* (Ibadan University Press, 1980) p. 1

¹⁴ J.A Atanda., (1980) Ibid. p. 1

¹⁵ N.A Fadipe., *The Sociology of the Yoruba* (Ibadan University Press, 1970) p. 37

¹⁶ Today, both groups practice three religions: Christianity, Islam and African traditional religion. See H.L Ward Price., *Land Tenure in the Yoruba Province* (Government Printer Lagos, 1939) p. 4

converted to Islam.¹⁷ Most Yoruba groups, including the Oyo, claim the same ancestral origin and the same place of origin as all other Yoruba people: all Yoruba people acknowledge that Ile-Ife¹⁸ is the spiritual centre of the entire Yoruba people.¹⁹ Eades has pointed out that the use of the term ‘Yoruba’ as the identifying title for the Yoruba speaking groups in Nigeria was coined as recently as the 19th century by the then colonial power, Britain. However, this unity, Eades noted, is mainly “linguistic and cultural” and not political because there were, at least at the time of colonialization in Nigeria,²⁰ independent political kingdoms within the Yoruba population. The Ife and the Oyo were two such independent kingdoms in pre-colonial Yoruba,²¹ each with its separate king who, amongst other duties, would settle disputes within the different groups and between the Yoruba groups.²² During the 18th century, many of the Yoruba peoples were at war with one another, in part because there was no form of overarching political authority to maintain unity.²³ Nevertheless, although Ile-Ife was the spiritual centre of the Yoruba, the Oyo became politically more influential than the Ife. But this was not a long-term feature of the Yoruba people, and the collapse of the Oyo kingdom led to today’s Ife-Modakeke conflict.²⁴ A critical consequence of the collapse was that, because both the Ife and the Oyo kingdoms relied on farming and fishing for their economic survival and wellbeing, additional manpower came from strangers, refugees, and slaves.²⁵ The collapse of ancient Oyo led to the Modakeke becoming additional manpower for the Ife, and the status of the Modakeke in Ife is, even today, the principal issue in the Ife-Modakeke conflict.

When the Oyo kingdom fell in the 1800’s,²⁶ many of its subjects moved away from Oyo to other places. Some founded Yoruba cities such as Ibadan, while others moved into already

¹⁷N.A Fadipe., (1970) Ibid. p.34-36 and S.O Biobaku., *The Egba and their Neighbours* (Oxford: Clarendon Press, 1957) p. 26

¹⁸Ile-Ife is the land while Ife is the people of Ile-Ife

¹⁹L. Robin., *The Oyo Empire c.1600-c.1836. A West African Imperialism in the Era of the Atlantic Slave Trade* (Clarendon Press Oxford, 1977) p. 28

²⁰J.S Eades., *The Yoruba Today* (Cambridge University Press, 1980) p. 2

²¹ J. Illiffe., *Africans: The History of a Continent* (Cambridge University Press, 1995) p. 78

²²For the judicial function of the Ife and Oyo kings respectfully see W. Bascom., *The Yoruba of Southern Nigeria* (Waveland Inc., 1984) p. 45 and New World Encyclopaedia: Oyo Empire. Online: http://www.newworldencyclopedia.org/Entry/Oyo_Empire

²³A. Akinjogbin., *War and Peace in Yoruba Land 1793-1893* (Heinemann Educational Books Nigeria, 1998)

²⁴The letter of Sir Phillip Cunliffe-Lister Secretary of State for the Colonies concerning tenders for Ife Native Administration Water Scheme reveals that the Oyo Province acted on behalf of the Ife Native Administration inviting for Tenders for Ife Water Scheme. Government House Nigeria 15/03/1935. CO583/203/13 National Archive London. Government House Nigeria 15/03/1935.

²⁵ T. Falola., ‘Slavery and Pawnshop in the Yoruba Economy of the Nineteenth Century’ in P.E Lovejoy & T. Falola., (2003) *Pawnshop, Slavery and Colonialism in Africa* (Africa World Press, 2003) p. 109-135 [113]

²⁶A new Oyo was formed shortly after the fall of the old Oyo. The modern Oyo State capital was not the foundation of the Old Oyo kingdom neither is it the power of modern-day Oyo the same as the ancient Oyo empire. According to Robin, the modern Oyo is a mere shadow of the ancient kingdom. See L. Robin., *The Oyo Empire c.1600-c.1836: A West African Imperialism in the Era of the Atlantic Slave Trade*. Clarendon Press Oxford, 1977) p. 3.

established kingdoms as a group,²⁷ retaining their traditional rulers but still subject to the government of the host community, such as the Ogbomosho. But the Oyo group that arrived in Ile-Ife, the Modakeke, were designated by the government of the Ife (in Ile-Ife) as refugees and therefore entirely subject to the Ife governance and norms of the Ife.²⁸ The Modakeke were regarded as being of great economic benefit to the host community, providing economic stability for the Ife.²⁹ This was achieved by Modakeke individuals farming lands owned by Ife citizens, and by farming land which the Ife made available to the Modakeke.

As part of the custom in Ife, and in ancient Oyo, and elsewhere amongst the Yoruba, the use of another person's land required a payment, called Ishakole ³⁰in the Yoruba language (a 'fee'). Lloyd noted that these payments were mostly made 'in kind': portions of produce from the land, "not in respect of the land but ... [as]... obligations which stem from their membership of the kingdom."³¹ Therefore, the Oyo migrants (the Modakeke) living in Ile-Ife paid Ishakole to those Ife inhabitants whose ancestors had never left Ile-Ife, regardless of the claim by the Modakeke that their ancestors originated from Ile-Ife and shared the same culture. One explanation for the insistence on payment of Ishakole was, and still is, that social, cultural and political variations between the Ife and the Modakeke, brought about by years of separation between the two groups, contributed to such significant differences between the two groups that Ishakole must be paid to the Ife by the Modakeke as refugees or (former) slaves. This is a continuing source of dissatisfaction for the Modakeke and, therefore an issue which sustains the conflict and, with other issues, sometimes results in violent conflict between them.

During the more than a century-long conflict between the two groups, there have been seven violent confrontations: one during the pre-colonial era (1835-49) after the fall of the old Oyo kingdom, two during the colonial period (1882-1909 and 1946-49), and four in post-

²⁷O. Olutobi & A.Oyeniye, (1994) *Modakeke from Grass to Grace* (Olutobi Ventures Osun State Nigeria, 1994) p. 2

²⁸Oluobi and Oyeniye wrote that the Ife refugees were initially "living within the four walls of Ile-Ife" see O. Olutobi & A. Oyeniye, (1994) *Ibid.* p. 2

²⁹J.F Ajayi, & S.A Akintoye., 'Yoruba Land in the Nineteenth Century' in I. Obaro (Ed) *Groundwork of Nigerian History* (Ibadan, 1980) p. 286

³⁰Ishakole is the "fee paid to owner of land or to Ba'le (where land is deemed to be vested in him) or to Ba'le. Such fee is paid to the Ba'le during some ceremony such as a marriage, funeral etc. Such payment is no rent but are a token of the paramount rights of the granter of the land." See R.C Abraham., *Dictionary of Modern Yoruba* (London: Hodder and Stoughton, 1978) p. 321

³¹P.C Lloyd., *Yoruba Land Law* (Oxford University Press, 1962) p. 63. Today, the supreme court has decided that Ishakole is not evidence of over lordship but land rent which was very different from the ancient Yoruba custom. See the decision of the Supreme Court in *Chief Alhaji K.O.S., Are Alani Akanmu V Raji Ipaye & Others* (1990) Supreme Court Law Reports.

independence Nigeria (1981, 1983, 1997-98 and 2000).³² The earliest known violent clash between the Ife and the Modakeke was in 1835 and the last recorded violence was in 2000. A consideration of the violent conflict reveals that, with the passing of time and different political eras, the violence became more frequent, sometimes with the same or similar triggers (linked to their origins, their religious differences, and the clash of cultural norms observed by the Ife and the Modakeke), and sometimes with triggers created by the modern State's political and legal practices.

According to one of the early works on the history of the Yoruba,³³ the first of the violent clashes between the groups was in 1835 when the Ife turned against the Oyo migrants living among them. The reason for this was because the Oyo migrants living among the Ife shared the same Oyo origin with some other Oyo migrants who had conquered Ibadan, a nearby town that the Ife viewed as an extension of Ile-Ife. As a dispute resolution mechanism, in 1836, the then traditional ruler of the Ife, Ooni³⁴ Abewaila, separated the migrants from the Ife main town, providing them a separate tract of land in Ife which was later called Modakeke after the cry of a species of bird called Ako (Stork).³⁵ The Modakeke appointed for themselves a leader, the Ogunsua of Modakeke,³⁶ thus creating a new identity for themselves free from the Ife. Although the Modakeke came to live with their host community, the Ife, the "...Modakeke did not fully integrate with those already living in Ile-Ife..."³⁷ The separation of the refugees from the Ife, affected the Ife economy and the Ife poisoned their king for separating the Modakeke from the Ife. The reason for the reaction of the Ife people was that they no longer had the additional farming manpower. The first violent conflict between the Ife and the Modakeke originated in the steps taken by the Ife to bring the Modakeke back into Ile-Ife.

³²R.A Asiyanbola., 'Ethnic Conflicts in Nigeria: A Case of Ife-Modakeke in Historical Perspective' *Journal of Humanities, Social Sciences and Creative Arts*. vol. 5. no. 1., 2010, p. 61-78 [63]

³³S. Johnson., *The History of the Yoruba from the Earliest Times to the Beginning of the British Protectorate* (George Routledge & Sons Ltd, Lagos, 1921) p. 190

See also I.O Albert., 'Ife-Modakeke Crisis' in O.Otite & I.O Albert., (eds.) *Community Conflicts in Nigeria: Management, Resolution and Transformation*. (Spectrum Books, 1999) p. 144

³⁴Ooni is the title of the Ife rulers, while Alaafin is the title of the Oyo rulers

³⁵I.O Albert, I.O., (1999) Ibid. p.145

³⁶In the Modakeke Resolution from the meeting at the Modakeke ruler (Baale) residence in September 1947, the Modakeke asserted firmly that the Baale of Modakeke is the head chief and accredited representative of the Modakeke people. See. Ife Div.1/2 File No. 459. Ibadan National Archive.

³⁷T. Falola & A. Genova., *Historical Dictionary of Nigeria. Historical Dictionaries of Africa No: 111*(The Scarecrow Press Inc. U.K., 2009) p. 232

And the success of those steps has continued to be the dominant origin for continued conflict between the two groups from 1935 onwards.³⁸

Later, in 1882, the Modakeke sided with the citizens of Ibadan (also an Oyo-migrant community) in the war between Ibadan and Ife, helping the Ibadan people to defeat the Ife.³⁹ This led to war between the Ife and the Modakeke.⁴⁰ By this time, the colonial government was ruling the peoples of what is now Nigeria using traditional rulers who served as intermediaries between the local people and the colonial government.⁴¹ However, the dispute resolution powers of those local rulers were reduced by the colonial government.⁴² Thus, to resolve the Ife-Modakeke conflict, it was the colonial administration that disbanded the Modakeke in 1866, dispersing them to different places to settle, such as in Ipetumodu, Ode Omu and Iwo,⁴³ a decision the Ife supported.⁴⁴ However, in a Treaty entered by all Yoruba groups including the Modakeke in 1886 amongst themselves to end the long years of war among the Yoruba, the Modakeke were required to leave the lands to which the British had moved them and to move back to the Ife mainland. But the Modakeke refused and, instead, spread into unoccupied lands.⁴⁵ As land became scarce due to the expansion of the Modakeke, they gradually returned to the Ife in 1920,⁴⁶ but against the wishes of the colonial government⁴⁷ the Modakeke returned, but not to the Ife main town⁴⁸ but to their original separate settlements on the outskirts of Ile Ife as designated by the Ife in 1835.

Then in the 1940s the economic situation of the Ife and the Modakeke changed with the start of the cocoa boom. This led to another set of violent conflicts between the groups as the

³⁸S. Johnson., (1921) Ibid. p. 723

³⁹I.A Akinjogbin., *War and Peace in Yorubaland 1793-1893* (Heinemann Educational Books, Nigeria, 1998) p. 14

⁴⁰I.A Akinjogbin., (1998) Ibid. p. 14

⁴¹Lord Lugard Political Memorandum in A.H.M Kirk-Greene., *The Principles of Native Administration in Nigeria. Selected Documents 1900-1947*(Oxford University Press, 1965) p. 71

⁴²Colonial Report-Annual No. 878 Nigeria. Report for 1914, P.41 Presented to both The Houses of Parliament by Command of His Majesty. April 1916. Printed under the Authority of His Majesty's Stationary Office by Barclay and Fry Ltd, The Grove Southwark Street SE. Online: http://www.libsysdigi.library.illinois.edu/tiharvest/1914/306434_1914_Opt.Pdf .

⁴³R.A Olaniya., (1992) Ibid. p. 273

⁴⁴Archive letter shows the Ife initially did not want the Modakeke back

⁴⁵I.A Akinjogbin (1992) Op cit. p. 272

⁴⁶B.A Oyeniyi., 'Greed- Grievance Debate and the Ife-Modakeke Conflict' *Social History* (Routledge Taylor and Francis Group) vol. 35. no 3. p. 319

⁴⁷ The then resident officer in a letter dated 4th June, 1915 to the Secretary Southern province stated emphatically that he does not back the return of the Modakeke to Ife rather, he prefers them to settle at Lasole were they were originally sent by the Alaafin before colonial intervention. See Letter sent by the W.A Ross Commissioner to the Secretary of Southern Province, 4th June, 1915. D.O. Ibadan No. C. 39/21/15. Ibadan National Archive. See also Letter sent by the Senior Resident Officer to the District Officer at Ibadan, 25th March, 1919. DO NO. 624/203/1919. Ibadan National Archive

⁴⁸ Ife like most Yoruba groups in Nigeria is made up of main town or capital city and subordinate towns and farming villages. See the discussion in chapter three under social structure of the Ife-Modakeke.

Modakeke claimed that the Ife landlords made them pay more Ishakole for the use of Ife land for farming.⁴⁹ They argued that they should not be paying the Ishakole in the first place because the Ishakole that was paid by their forefathers was only acknowledgment of gratitude for the use of the land and was not obligatory rent.⁵⁰ The argument continued that not only was increased Ishakole not payable, but that no Ishakole was payable at all. This led to the third occasion of violence between the groups. The colonial government supported the Ife and the colonial Supreme Court in 1948 ruled that the Modakeke must continue to pay the Ishakole as land rent and that Ishakole was obligatory rent not just a voluntary tribute and was independent of any customary tributes payable at will on certain festivities.⁵¹ The violence conflict did not end in 1835 but carried on until 1849. But to further assert their independence from the Ife, in 1947 the Modakeke petitioned for a separate place of worship (a mosque in lands occupied by the Modakeke, in addition to the existing mosque in Ile Ife), but the then Ooni of Ife rejected the petition for a separate Imam, noting that the Modakeke were a quarter of the combined community of the Ife and Modakeke, and not a separate community.⁵² Also in 1940, the Colonial government of Nigeria rejected a separate native court for the Modakeke.⁵³ Although these two events did not directly lead to further violence, they added to the sense of discrimination.

In 1958, two years before independence, oil was found in Nigeria bringing great joy and hope for economic freedom for the Nigerian people.⁵⁴ Nigeria's oil was traded profitably in the international market at the time⁵⁵ and, after independence the revenue was shared at the Federal level on the basis of population size of the then regions.⁵⁶ Unfortunately, the imbalance between the regions and the growing importance of crude oil, led to the Nigerian civil war which lasted from July 6 1967 to January 13 1970.⁵⁷ In 1967 the regional structure was broken up with the creation of states but with the Federal government gaining more

⁴⁹R.A Olaniya., 'The Modakeke Question in Ife Politics and Democracy' in A. Akinjogbin et al *The Cradle of a Race Ife from the Beginning to 1980* (Port-Harcourt, Nigeria. Sunray Publications Limited, 1992) p. 275. Further discussions on the effect of the Ishakole payment can be found in chapter four of this thesis.

⁵⁰ Letter of Modakeke to the Chief Commissioner Western Province: Payment of Ishakole October 1947 Paragraph 4. Ife Div. 1 /1-3/Ife Div. 1 /1-3/. Loose Papers. Ibadan National Archive, Nigeria

⁵¹Ife Overlords v Modakekes (1948) The Daily Service, Wednesday 22 December. p. 55

⁵²Oyo profile 3, File No. Oy/2499. National Archive Ibadan

⁵³Nigerian Tribune, 7 May 1981. Ibadan. p.3

⁵⁴Andrew Walker "The day Oil was discovered in Nigeria" BBC News. 17 March, 2009. Online: <http://news.bbc.co.uk/1/hi/world/africa/7840310.stm>

⁵⁵I. Nolte., 'Federalism and Communal Conflict in Nigeria' *Regional & Federal Studies*, vol.12, no.1p. 171-192 [174]

⁵⁶I. Nolte., Ibid. p. 174

⁵⁷The New World Encyclopaedia: "Nigerian Civil War" online: http://www.newworldencyclopedia.org/entry/Nigerian_Civil_War

political and economic control of the resources.⁵⁸ After Nigerian independence in 1960, the revenue allocation formula was based on equality irrespective of contribution from the states thus creating economic incentives for more “groups to demand their own states.”⁵⁹ This was reflected at the local level with demands for separate local authorities. These opportunities were the incentive for the Modakeke to renew the agitation for a separate identity in Ile-Ife through the creation of a separate Local Government for the Modakeke to enable them to control the land they occupy on the outskirts of Ile Ife and to control the resources coming from the Federal and state government through revenue allocation to the Local Authorities.⁶⁰ Because the revenue was being allocated to the Local Government areas from the Federal and state governments by virtue of section 149 of the 1979 Constitution⁶¹ it is not surprising that both levels of government were involved in the resolution attempts of the Ife-Modakeke conflict but as will be observed from the history of the conflict in chapters three to five, the state was more involved as it was closer to the Local Government. At the state level, in 1979, Chief Bola Ige, the governor of Oyo state refused to grant Modakeke a separate Local Government.⁶² Regardless of the Ife and the government position, the Modakeke never gave up their struggle for a separate identity from the Ife. Two Federal laws gave the Modakeke renewed interest in separating from the Ife economically and politically. These were the Local Government Reform Act 1976, which made Local Governments a third level of government in Nigeria, and the Land Use Decree 1978 which vested all land in the Federal government.⁶³ These statutes gave Modakeke a hope that they can assert their freedom from the Ife by means of a separate Local Government authority for themselves and freedom to live in the Ife land as part of the Nigerian land and not as settlers in the Ife.

⁵⁸P. Ekeh., ‘Obasanjo & The Burden of Civilization in Issue’ cited by I. Nolte., ‘Federalism and Communal Conflict in Nigeria’ *Regional & Federal Studies*, vol.12: no.1, p. 171-192 [175]

⁵⁹ I. Nolte., (2002) Ibid. p. 175

⁶⁰Revenue flows from the federal government to the states and to the Local Government through the Constitutional provisions for Local Government funding in section 7 of the 1999 Constitution of Nigeria

⁶¹Section 149(2) provides that “Any amount standing to the credit of the Federation Account shall be distributed among the Federal and State Governments and the Local Government Councils in each State on such terms and in such manner as may be prescribed by the National Assembly. See The 1979 Constitution of Nigeria. Online: <http://www.lawnigeria.com/Constitutionhub/Constitution/1979ConstitutionofNigeria.html>

⁶²A. Akinjogbin., *War and Peace in Yorubaland 1793-1893* (Heinemann Educational Books Nigeria, 1998) p. 173

⁶³Detailed account of the effect of the Local Government reform and the land use decree on the Ife-Modakeke conflict will be discussed in chapter 7

In 1980, the Modakeke launched a special Town Hall and Palace fund to care for Modakeke economic needs which was disrupted by the Ife and led to renewed violent conflict.⁶⁴ Physical violence occurred for the fourth time between the groups when finally the Federal military government created a Local Government for the Modakeke but with the headquarters of the new Local Government located in Ile Ife.⁶⁵ A panel of inquiry headed by Chief Bola Ige came up with recommendations for political and economic separation of the groups by giving the Modakeke a Local Government which was located in Modakeke lands, but the recommendation was never implemented⁶⁶ providing another opportunity for a future violence between the groups.

The fifth instance of violence occurred in 1983 when, first, the majority of the Modakeke voted for the National Party of Nigeria against the Ife's chosen Unity party of Nigeria and, second, the National Party ousted the Unity Party. This was said to embarrass the Ooni of Ife who then renamed streets in Modakeke and downgraded the title and status of the Modakeke ruler, the Ogunsua of Modakeke.⁶⁷ This triggered much violent reactions from the Modakeke and resulted in loss of lives and properties on both sides.⁶⁸

In 1989, the Federal Military Government of Nigeria converted the single Ife Local Government into three Local Governments for Ile-Ife and the Modakeke lands, putting the Modakeke into the Ife-North Local Government which separated the Modakeke from the majority of the Ife people in the Ife-South and the Ife-Central local authorities. This made the Modakeke happy. But when a fourth Local Government was created in 1996 for the Modakeke, it ignited violence because the fourth Local Government area created included a part of the palace of the Ife monarch. This was considered by the Ife as a humiliation of the revered stool, the stool of the Ooni,⁶⁹ and the Ife youths and adults took up arms and wanton destruction of lives and property began in earnest.⁷⁰ And when the Local Government

⁶⁴Report of the Judicial Commission of Inquiry into the Communal Disturbances in Orangmiyan Central Local Government Area of Oyo State, led by Hon. Justice Kayode Ibidapo. Ibadan Government Printer. 1981. p.11

⁶⁵ A. Akinjogbin., (1998) p. 173-175

⁶⁶T.A Imobighe., *Civil Society and Ethnic Conflict Management in Nigeria* (Spectrum Books Limited Ibadan, 2003) p. 159

⁶⁷N. Ogbara., *The Ife-Modakeke Crisis in Hope Betrayed? A Report of the Impunity and State-Sponsored Violence in Nigeria*. (World Organisation Against Torture (OMCT) Switzerland and the Centre for Law Enforcement Education, Nigeria, 2002). p. 40

⁶⁸A.A Adegbite, B.O Balogun & F.N Buba., 'Impact of Ife-Modakeke Intra-Communal Conflicts on Spatial Realignment of Ile-Ife City' *Global Journal of Science Frontier Research*, vol. 16. Issue 2, 2016.

⁶⁹N. Ogbara., (2002) Ibid. p. 41

⁷⁰'Nigeria: Ife, Modakeke Crisis: the Modakekes Raise the Stakes' 6 March, 2002. Online: <http://www.modakeke.info/2013/05/23/nigeria-ife-modakeke-crisis-the-modakekes-raise-the-stakes/>

headquarters were moved from Modakeke land to Oke-ogbo in Ile Ife in 1996, further violent conflict ensued between the groups.⁷¹ Attempts at resolution of the 1996 conflict(s) was by another panel of inquiry in 1997.

Also, in 1997, Osun state Council of Traditional Rulers set up a committee-The National Reconciliation Committee under Chief Alex Akinyele⁷² to look into the conflict and make recommendations for peace. The committee took evidence in Abuja and came up with recommendations for the Modakeke to be given a Local Government area and for both communities to honour the recommendations for peace.⁷³ But the recommendations were never implemented. In the year 2000, the Modakeke inhabitants decided amongst themselves to implement the recommendations of the peace panel set up in 1997 by declaring themselves to be a separate Local Government.⁷⁴ This led to another bout of war between the two groups. Around 1,000 individuals were killed and several thousand were injured.⁷⁵

From the background of the Ife-Modakeke and their conflict as outlined above, it can be argued that economic and political separation of the two groups from each other is necessary for the resolution of the Ife-Modakeke conflict. Although both groups claim the same origin, their long years of independent and separate political and social experiences have made it difficult for the Modakeke to integrate with the Ife. The economic benefit to the Ife of having the Modakeke as proximate neighbours of the Ife contrasts with the benefit for the Modakeke of having a permanent home outside Ile-Ife but being independent from the Ife. These opposite interests have contributed to the non-integration of the Modakeke in the Ife and to periodic violent conflict. The nature of conflict in itself means that these diverse interests when perceived as unreconcilable by the people leads to continued conflict.⁷⁶

1.2 Statement of the Problem

Political separation from the Ife was one action of the government of Nigeria that brought the Modakeke joy and was an incentive to end the violent conflict with the Ife. Describing the

⁷¹J.O Toriola., 'The Ife/Modakeke Crisis: An Insider View' *Ife Psychologia: An international Journal* vol. 9. -no. 3 p. 21-29

⁷²T.A Imobighe., *Civil Society and Ethnic Conflict Management in Nigeria* (Spectrum Books Limited Ibadan) p. 159

⁷³T.A Imobighe., *Ibid.* p. 59

⁷⁴*Ibid.* fn. 70

⁷⁵O.O Akanji., 'Group Rights and Conflicts in Africa: A Critical Reflection on Ife-Modakeke, Nigeria' *International Journal on Minority and Group Rights* vol.16. no, 1, 2009. p. 31-51[46]

⁷⁶Lewicki *et al* defined conflicts as "[p]erceived divergence of interest or believe that parties' current interest cannot be achieved simultaneously." See R. Lewicki, D.M Saunder & B. Barry., *Negotiation* (6th edition, McGraw-Hill, 2010)

effect of an attempt at political separation of the Modakeke from the Ife in 1989, Akinjogbin wrote:

*“It is sure that we are in the Promised Land. Agitation, Oppression and Unhealthy rivalry between Modakeke and Ife have been solved after 150 years (1838-1989) of wars and near apartheid in an independent Nigeria. What an uneasy journey of 150 years towards the Promise Land”*⁷⁷

The statement above is a description of how the Modakeke felt when the Federal Military Government of Nigeria initiated the political separation of the Modakeke from the Ife by creating three separate Local Government authorities. The Ife-North authority was dominated by the Modakeke with only a small amount of Ife territory, while the Ife South and the Ife Central authorities were dominated by the Ife. However, the peace described above did not last long because the ultimate vision of the Modakeke to be politically and economically free from the Ife had not been realised by a full Local Government authority for the Modakeke located in Modakeke territory. Thus, the Modakeke unwillingness to stop violence and their negative reaction to government efforts at ending the violence and resolving the conflict between the groups:

*“...Modakeke people always accept invitation to all peace meetings, but meanwhile, they re-arm and are better prepared. They keep fighting occasionally, accept truce to re-arm and then start fighting again.”*⁷⁸

The government of Nigeria starting from the colonial era have tried to resolve the problem of group conflicts in Nigeria by encouraging integration through Constitutional provisions and the post-independent Federal structure of the country but this has not succeeded in ending the problem.⁷⁹ The reason is that governments have been part of the problem by continuing traditional norms involving land norms that promote ethnic hierarchies and conflict between groups continues.⁸⁰ Akanji observed that starting from the colonial government, all the colonial Constitutions in Nigeria from 1922 to 1960 had elements that fostered the

⁷⁷I.A Akinjogbin., *War and Peace in Yorubaland 1793-1893* (Heinemann Educational Books, Nigeria, 1998) p. 175

⁷⁸G.A Agbe., ‘The Ife/Modakeke Crisis an Insider View’ *Ife Psychologia. An International Journal* vol. 9. no 3. 2001. p. 17

⁷⁹Mamdani, M., (2001) ‘Beyond Settlers and Native as Political Identities: Overcoming the Political Legacy of Colonialism’ *Comparative Studies in Society and History* (Cambridge University Press) vol. 43. no. 4. Oct 2001. p. 651-664 [661]

⁸⁰C. Boone., *Property and Political Order in Africa. Land Rights and the Structure of Politics* (London School of Economics and political Science. Cambridge University Press, 2014) p. 105

‘native/indigene-settler/non-indigene relationships along political lines.’⁸¹ Eke explained that the colonial rule promoted division among Nigerians by creating the consciousness of the “North for Northerner” and the “East for Easterners” and the “West for Westerners”⁸² Rather than uniting the people, the colonial government drove deeper the issues of identities and separateness of the Nigerian peoples.⁸³

The post-independent Nigerian State attempted to unite groups and reduce conflicts among dissatisfied Nigerian ethnic groups by continuing regionalism in the 1960 Constitution in its sections 2 and 3 (1).⁸⁴ However, the continuation of regionalism by the modern State of Nigeria only led to continuation of the majority-minority problems to the new states as allegations of sectional discrimination in the distribution of development led minorities to seek self-government.⁸⁵ Also, the Federal Character Principle introduced into the 1979 Constitution in section 14 and the current Constitution of 1999 only served to foster dual citizenship cleavages that of ‘local group first’ before being a Nigerian. Because of the dual native/indigene-settler/non-indigene relationship that the government promotes in the Constitution by virtue of section 147 of the 1999 Constitution, along with State actions, it appears that not all groups have the same access to devolved government in Nigeria regardless of the provision for creation of states and Local Government areas set out in section 7 of the 1999 Constitution. This problem of unequal access to devolved government created by the modern State must be addressed for a resolution of the Ife-Modakeke conflict, because, as shown in the background to the conflict discussed above, most of the modern-day Ife-Modakeke conflict is the result of Modakeke struggle for political power through a Local Government for the Modakeke. The result has been political manipulation to pacify the Modakeke without actually effecting the separation of the groups by means of a Local Government. This thesis argues that the issue of unequal devolution of power must be addressed to end the Ife-Modakeke violent clashes or else all that will be left is a politics of manipulation of the groups to manage the conflict. This would lead every divergent interest

⁸¹O.O Akanji., ‘The Problem of Belonging: The Identity Question and the Dilemma of Nation-building in Nigeria’ *African Identities* (Routledge Taylor & Francis Group) vol. 9. no. 2 May 2011, p. 117-132 [118]

⁸²S.J Eke., ‘Good Policy Gone Bad: Institutionalised Ranking of Citizens and Identity Conflicts in Nigeria’ *India Quarterly: A Journal of International Affairs*. vol. 71, 2015 p. 318-334 [321]

⁸³O.O Akanji., (2010) Ibid. p. 121

⁸⁴Section 2 provides: “The Federation of Nigeria shall consist of Regions and a Federal Territory and section 3(1) provides that “There shall be three Regions, that is to say, Northern Nigeria, Western Nigeria and Eastern Nigeria” See the Constitution of the Federation of Nigeria 1960

⁸⁵See Nigeria: Report of the Commission Appointed to enquire into the Fears of Minorities and the Means of Allaying them. Her Majesty’s Stationary Office London, 1958.

between the groups, such as the next set of elections in 2020, to provide the potential for violence between the two groups considering the precedent of previous violence.

The fundamental basis for the application of the concept of economic and political separation to the Ife-Modakeke conflict situation in Nigeria, arises from the gaps in the colonial and post-colonial State attempts at resolving the conflict and the existing legal framework none of which provide for a concrete framework for permanently resolving the conflict. This is in addition to other gaps and weaknesses that exist in the current economic and political structure of Nigeria, all of which justifies the application of economic and political separation as proposed in this thesis. This change in the relationship between the two groups can be justified, *inter alia*, by reference to the precedent of dispute resolution in pre-colonial and colonial Nigeria, to the Nigerian Constitution on Local Government creation;⁸⁶ decisions of the Nigerian Supreme Court relating to land ownership by the Ife and the Modakeke;⁸⁷ and to the recent recognition by the traditional ruler of the Ife of a new status for the traditional ruler of the Modakeke.⁸⁸

The thesis identifies the strengths in separation of the two groups in relation to their conflict and focuses on the advantages and feasibility of an economic and political separation of the groups for resolving their conflict. The overriding theme and ultimate aim of this thesis is to examine the Ife-Modakeke conflict with the primary objective of making recommendations for resolving the conflict. However, as it reflects wider and structural issues, it can partly serve as a case study about conflict resolution in similar disputes. In this way, the study contributes to the effectiveness of resolving the Ife-Modakeke conflict in Nigeria and more widely in Africa.

Although ethnic conflict in Nigeria is the broader picture, the Ife-Modakeke conflict requires immediate action as the most recent violence in 2000 between the groups was characterised

⁸⁶Section 7 of the Constitution of the Federal Republic of Nigeria Cap. C.23 Laws of The Federation of Nigeria Guarantees Creation of Local Government Areas. Of the Federal Character System that is aimed at equality of all Tribes in Nigeria.

⁸⁷The Court of Appeal in Nigeria has held that proof of long possession can amount to ownership of land see *Aminu Raji v Jimoh Oladimeji and Oseni Aremu* (2014) Court of Appeal/1203/2008(2014); Also, The Supreme Court has held that outright sale of land to strangers was improbable not impossible in Yoruba Land Tenure System. See *Okiji v Adejobi* (1960) Supreme Court Nigeria Law Report. 133.

⁸⁸The Ooni (Ife Traditional Ruler) anointing of the Modakeke Monarch the Ogunsua of Modakeke as a recognised ruler of The Modakeke with the Governor of Osun State of Nigeria presenting him with a staff of office further opens up the lines for separation of the Modakeke from the Ife. See Vanguard News: 'Ooni Crowns Ogunsua of Modakeke' 6 September 2009. Online: <http://www.vanguardngr.com/2009/09/ooni-crowns-ogunsua-of-modakeke>

by Akanji as borderline genocide.⁸⁹ Published empirical evidence⁹⁰ indicates that continued conflict of groups such as the Ife and the Modakeke leads to loss of lives and properties on a grand scale. For example, the Government reported a cost of 31.8 million naira (£636,000 and \$676,000) for treating hundreds of victims of the crisis in just one hospital, namely; Obafemi Awolowo University Teaching Hospital.⁹¹

The cost of not adequately addressing the violent conflict of the groups is not just detrimental to the individuals caught up in violence and, more broadly, domestic Nigerian affairs. As Nigeria is governed by the norms of the international community by virtue of Nigeria ratifying the United Nations Charter and is also governed by the norms of the African Union (AU), Nigeria will inevitably invite the interest of the international community and the AU. An issue which arises is whether the international community or the AU might intervene in the affairs of the sovereign State of Nigeria, be it as direct intervention for a peacekeeping mission or under the guise of failure to carry out Nigeria's responsibility to protect its citizens. As Engdahl noted, the right for the AU to intervene (including militarily) in a sovereign member State's internal affairs is based in the AU treaty, and that the Constitutive Act of the AU permits its intervention for "war crimes, genocide and crimes against humanity".⁹² The AU intervenes on the recommendations of the Peace and Security Council to the Assembly of the Union.⁹³ The Peace and Security Council is guided by the principles enshrined in the Constitutive Act of the African Union, the Charter of the United Nations and the Universal Declaration of Human Rights.⁹⁴ The Assembly of the African Union decides to intervene either on its own initiative or by the request of a member State.⁹⁵ The Republic of Nigeria is a Member State of the African Union.⁹⁶ Although, the Ife-Modakeke conflict is between

⁸⁹O.O Akanji., 'Group Rights and Conflicts in Africa: A Critical Reflection on Ife-Modakeke, Nigeria' *International Journal on Minority and Group Rights*. vol.16.no. 1., 2009. p. 46

⁹⁰See generally N. Ogbara., *Hope Betrayed? A Report on Impunity and State Sponsored Violence in Nigeria* (. World Organization Against Torture (OMIT) Switzerland & Centre for Law Enforcement Education (CLEEN) Lagos Nigeria, 2002) p. 44-45

⁹¹The Guardian Nigeria Newspaper, 8 November, 1999. p.1

⁹²O. Engdahl., (2015) 'Protection of Human Rights and the Maintenance of International Peace and Security: Necessary Precondition or A Clash of Interests' in C. M Bailliet & K.M Larsen (Editors) *Promoting Peace Through International Law* (Oxford University Press, 2015) p. 118 , Omitting Footnote 50 Referring to the "Constitutive Act of the African Union, 1 July 2000, 2158 UNTS 3"

⁹³Article 6 of the Constitutive Act of the African Union adopted by the thirty-sixth ordinary session of the Assembly of heads of State and Government 11 July, 2000. Online: https://au.int/sites/default/files/pages/32020-file-constitutiveact_en.pdf

⁹⁴Articles 7 (e) of the Protocol Relating to the Establishment of the Peace and Security Council of the African Union. Online: [https://au.int/sites/default/files/treaties/7781-treaty-0024 -_protocol_relating_to_the_establishment_of_the_peace_and_security_council_of_the_african_union_e.pdf](https://au.int/sites/default/files/treaties/7781-treaty-0024_-_protocol_relating_to_the_establishment_of_the_peace_and_security_council_of_the_african_union_e.pdf)

⁹⁵Article 4(h) (J) of the Constitutive Act of the African Union adopted by the thirty-sixth ordinary session of the Assembly of heads of State and Government 11 July, 2000. Online at https://au.int/sites/default/files/pages/32020-file-constitutiveact_en.pdf

⁹⁶The Republic of Nigeria Acceded on October 1, 1960. See Member States of the African Union Online: [Http://www.au.int/en/Countryprofiles](http://www.au.int/en/Countryprofiles)

groups in Nigeria, the Nigerian State is not isolated from the international community and the African Union⁹⁷ and as a result have certain internationally recognised obligation towards its citizens. In recognition of these obligations, the thesis examines the international obligation of the Nigerian State as part of the subsidiary research questions.

Granted, there had been military intervention by the State in the conflict of the Ife-Modakeke⁹⁸ and the Nigerian government views violent clashes⁹⁹ as a criminal offence under the criminal code and punishable in Nigeria.¹⁰⁰ However, this thesis is concerned with acts of groups in the expression of their dispute preferences and not as criminals. As a result, only the Constitutional and related laws and not criminal codes are dealt with to determine their impact on group conflict. Most especially, the Constitution has more far reaching effect on matters arising in Nigeria as the Constitution is the highest authority in Nigeria and all other laws inconsistent with the Constitution is null and void.¹⁰¹ Also, considering that Nigeria is a Federal country and the integration of diverse groups that make up the federation is a fundamental part of its guiding principle in section 3(1) of the Constitution, physical separation will not be supported by the Nigerian State. However, the Constitution by virtue of section 3(6) and section 7 recognises the diverse nature of groups that make up the federation of Nigeria, as a result, the chapter argues that economic and political separation is possible for groups to allow for a level of autonomy and self-determination¹⁰² within the Nigerian State.

1.3 Hypothesis

The hypothesis of the thesis is that the government of Nigeria should be advised that, the Ife and the Modakeke people, having been in conflict with each other over land, citizenship status, and identity issues since pre-colonial times and with the frequency of violent conflict

⁹⁷In the present field of conflict resolution International law does not only govern sovereign States, it has progressed to governing the relations between sovereign States and nationals. See M. Dixon., *International Law*. (6th edition Oxford University Press) p. 4

⁹⁸ The functions of the Nigerian Military in Section 217 of the Constitution of the Federal Republic of Nigeria, 1999 Cap. 23 Laws of the Federation of Nigeria 2004. Herein after referred to as CFRN 1999 in this Chapter. Also see the allegations of Police involved in Extra-Judicial killings in Ife-Modakeke conflict in 1999, 2000 in N. Ogbara., (2002) Ibid. p. 49

⁹⁹ Clashes here refers to struggles over values with the opposing parties desiring to eliminate the other rivals to gain the values. See N. Ogbara., (2002) op cit p. 37 quoting E.K.D Adjaho., 'The Responsibility of the Legislative Power in the Emergence, Prevention and Management of Political Crisis in Parliamentarians of West Africa' Inter-Parliamentary Seminar 5th edition, 1997 p. 28

¹⁰⁰ Section 42, 70, 441 and 443 of the Criminal Code Act Chapter 77 Laws of The Federation of Nigeria, 1990

¹⁰¹ Section 1(3) The CFRN, 1999 Ibid

¹⁰² Self-determination as used in this thesis refers to greater autonomy of groups by means a Local Authority system granted by the State. See further discussions of the usage in Appendix 15 and chapter 7 of this thesis.

having increased since the end of colonialization, will continue to be in conflict with each other because they have not been effectively separated from each other and that economic and political separation of the groups is both feasible and necessary to resolve the Ife-Modakeke conflict. Separation here refers to economic and political separation by means of granting internal self-determination through a Local Government Authority dominated by Modakeke and located in Modakeke land within the Nigerian Federal system, since physical separation is not feasible for resolving their conflict in modern Nigeria. In order to establish this hypothesis, the thesis critically analyses the effect of the social, economic and political structure of the Ife and the Modakeke in relation to the level of success in managing the conflict in the pre-colonial, colonial and post-colonial times.

1.4 Research Questions

Against the background above, the fundamental research question of this thesis is whether economic and political separation of the Ife from the Modakeke by granting the Modakeke a Local Government area will provide a permanent resolution to the Ife-Modakeke conflict in Nigeria? Flowing from this, the detailed answer to the feasibility of a successful resolution of the Ife-Modakeke conflict will be provided by engaging with subordinate questions addressing each of the three political eras of the conflict, namely; the pre-colonial, the colonial and the post-colonial State as well as the international obligations of the modern State of Nigeria towards groups in conflict and any necessary pressure that can be put on Nigeria to carry out such obligations. The subsidiary questions are:

1. To what extent does the pre-colonial social, economic and political structure of societies such as the Ife and the Modakeke demonstrate that separation was useful for conflict prevention and resolution? And further, how successful was separation in preventing and managing the Ife-Modakeke conflict in pre-colonial times?
2. To what extent does the colonial social, economic and political structure of the Ife-Modakeke demonstrate separation or lack of separation as a means of resolving their conflict?
3. To what extent does the social, economic and political structure of the modern Nigerian State affect the Ife-Modakeke conflict and resolution by separation of the groups?
4. Is it necessary and feasible for state governments of Nigeria to create Local Governments and can the Ife-Modakeke conflict be resolved by an economic and

political separation of the Modakeke by means of a new Local Government authority for the Modakeke notwithstanding any consequences for demands of similar treatments by other Nigerian ethnic groups?

5. What is the international legal obligation of the Nigerian State to protect the Modakeke and the Ife from each other; to grant internal political and economic self-determination to the Modakeke; and to prevent the human rights of the Modakeke being breached by any individual or group of individuals (whether organs of the State or otherwise)?

1.5 Theoretical Framework/Literature Review

As was established under the sections on the background to the study, the major proposition of this study is that economic and political separation of the Ife from the Modakeke through creation of a Modakeke dominant Local Government area is a possible means of ending the more than a century-long conflict between the groups. This is consistent with the fundamental criterion of the anthropology/sociology of dispute resolution, theories of ethnic conflict and increase autonomy for the groups by means of internal self-determination.

This thesis aims to be an original contribution to knowledge in the field of conflict resolution in Nigeria considering that it is the first study to analyse the feasibility of resolving the Ife-Modakeke conflict through separation. Previous studies on the Ife-Modakeke conflict have had a tendency to concentrate on the general history of the conflict, the causes of the conflict and the role of the State in resolving conflict. Also, the failure to consider economic and political separation as a means of resolving the Ife-Modakeke conflict is a major gap in the Nigerian studies on conflict resolution which this thesis addresses.

Literature on the Ife-Modakeke conflict and dispute resolution in this study is conveniently divided into three separate but interconnected fields of study namely: anthropology, sociology and legal studies. The objective of separating the literature review into anthropology, sociology and law is to bring together important and related explanatory variables under a logical and coherent framework.

1.5.1 The Theories of Anthropology of Group Conflict and Dispute Resolution in Africa

In broad terms, the anthropology of group conflict and dispute resolution involves anthropological study of the causes of group conflicts and how different groups resolve

conflicts. Although there are many theories of group conflicts,¹⁰³ the theories of anthropology are geared towards competition for scarce resources as the major causes of group conflict.¹⁰⁴ One writer who built eloquently on this line of argument was Homer-Dixon who argued that armed conflicts are caused by competition over resources due to scarcity caused by greenhouse-induced climate change, depletion of fisheries and degradation and loss of good agricultural lands.¹⁰⁵ Bruijn and Dijk, on the other hand, argue that violent group conflicts are not a result of scarce resources. They pointed to the example of the Hayre in central Mali which usually faces drought and, as a result, always experience scarcity of basic resources, yet there are no frequent conflicts between herders and farmers occupying the same area.¹⁰⁶ They further maintained that violent conflicts are frequent in areas where the best resources can be obtained and, according to both writers, the relationship between the people, and not the resources available to them, is the key issue of conflicts in societies.¹⁰⁷ This might be supported by the experience of modern-day Democratic Republic of Congo, where the vast mineral resources have resulted in the country being in almost constant conflict. And one reason is that powerful men (self-appointed elites) take whatever they can at the expense of everyone else.

The arguments of Bruijn and Dijk appear to have more relevance to Nigeria because, studies in Nigerian group conflict have demonstrated that, in the case of Nigeria, it is not a matter of scarce resources that makes for group conflict but rather, as Claude Ake puts it, it is “the habit of consuming...without producing.” This study therefore analyses the not just the anthropology theories of conflict but the economic structure of the Ife-Modakeke and its effect in the resolution of their conflict.

Furthermore, published works of anthropologists demonstrate that societies without centralised systems of government have found separation as a dispute resolution mechanism

¹⁰³The sociology notion of group conflict is discussed in the section of the literature review under sociology of group conflict and dispute resolution

¹⁰⁴B.E Schmidt & I.W Schroder., *Anthropology of Violence and Conflict* (Routledge, 2001) p. 2

¹⁰⁵T.F Homer-Dixon., ‘Environmental Scarcity and Violent Conflict: Evidence from Cases’ *International Security* (MIT Press-MASSAC HUSSETTS Institute) vol. 19 no. 1., 1994.

¹⁰⁶M. Bruijn & H. Dijk in P. Chabal, U. Engel & A. Gentili., ‘Is violence Inevitable in Africa? Theories of Conflict and Approaches to Conflict Prevention’ *Brill Leiden. Boston. Ed* vol. 1, 2005, p. 55

¹⁰⁷M. Bruijn & H. Dijk in P. Chabal & A. Gentili., (2005) *Ibid.* p. 70

effective for preventing and resolving conflicts between groups.¹⁰⁸ But plural societies¹⁰⁹ that lived under colonial rule and, similarly, in post-independence modern State systems with more centralised governments, cannot prevent or resolve conflicts by separation due to lack of available land for migration. Instead, plural societies practice traditional negotiation, mediation, and arbitration along with modern court processes,¹¹⁰ rather than physical separation which is more disruptive but probably more effective. It follows that groups such as the Ife and the Modakeke who are locked together physically cannot easily separate from each other physically making permanent resolution of their conflict difficult. However, as described below, the work done by anthropologists on dispute resolution in African societies such as those carried out on the Hadza and !Kung bushmen by Marshall¹¹¹ and Lee¹¹² as well as the notion of contact theory in modern times carried out by William¹¹³ and Pettigrew and Tropp¹¹⁴ have not considered the possibility of plural societies resolving conflicts outside physical separation such as economic and political separation.

There has been anthropological interest in the study of the African peoples and their general ways of life and their conflict and dispute resolution processes. Ogilby went on an expedition in Africa in the 1600's and wrote on African dispute resolution as being characterised by wars.¹¹⁵ Later, Blyden¹¹⁶ mapped the origin of the 'Negros of Africa', gathering information from several sources including personal visits to Sierra Leone in February 1871. In 1893 Mary Kingsley also decided to go to West Africa to study the peoples there. She recorded her observations in two main books (and sadly died on June 3 1900 from complications from her illness acquired in Nigeria). Mary Kingsley studied the social structure of the people she studied in Sierra Leone, French Congo, Gabon, Guinea, Angola and Nigeria, observing their

¹⁰⁸See I. Schapera., *A Handbook of Tswana Law and Custom Compiled for the Bechuanaland Protectorate* (Oxford University Press, 1938); E.E Evans-Pritchard., *The Nuer: A Description of The Modes of Livelihood and Political Institution of a Nilotic People* (Oxford University Press, 1940); C. Ellis., 'Hunting and Gathering Societies' Lecture Notes of University of Western Ontario in W. Lomas 'Conflict, Violence and Conflict Resolution in Hunting and Gathering Societies' *Journal of Anthropology* (The University of Western Ontario) vol. 17. Issue 1, 2009, p. 45

¹⁰⁹Pluralised systems occur where traditional laws and processes coexist with new laws and processes imposed by colonial States or modern States where they now find themselves.

¹¹⁰N. Rouland., *Legal Anthropology* (The Athlone Press London, 1994) p. 167-168

¹¹¹L. Marshall., 'Talking, Sharing and Giving: Relief of Social Tensions among the !Kung Bushmen' *Africa* vol. 31. p. 231-249

¹¹²R.B Lee., *The Dobe !Kung* (New York. Holt Rinehart & Winston, 1984).

¹¹³R.M William jr., *The Reduction of Intergroup Tensions* (New York: Social Sciences Research Council, 1947)

¹¹⁴T.F Pettigrew & L.R Tropp., 'Does Intergroup Contact Reduce Prejudice? Recent Meta-analytic Findings' in S. Oskamp (ed) *Reducing Prejudice and Discrimination: Social Psychological Perspectives* (Mahwah NJ Erlbaum, 2000) p. 93-114

¹¹⁵J. Ogilby., *Africa: Being an Accurate Description of the Regions of Egypt, Barbary, Libya, and Billedulgerid* (The Johnson. British Library London, 1670) p. 31

¹¹⁶E.W Blyden., *The People of Africa. A Series of Papers on their Character, Condition, and Future Prospects* (D.F Anson Randolph and Co, 1871)

cultures, religious practices and laws.¹¹⁷ Her study contributes to the study of dispute resolution through promoting interest in group social culture as a basis of resolving their conflict. Commenting on the work of Mary Kingsley, Glynn described Mary Kingsley as an “anthropologist, naturalist, and explorer...”¹¹⁸ This comment recognises Mary Kingsley’s works as an anthropologist interest in West Africa which this thesis further explores in chapter three because the Ife-Modakeke groups are groups in West Africa.

Although, Ogilby, Blyden and Mary Kingsley’s works did not deal directly with the conflict and dispute resolution of these societies, it established interest in the study of the African peoples.¹¹⁹ Writing in the history of the Yoruba started with Samuel Ajayi Crowther 1853 with a study of the Yoruba language.¹²⁰ Crowther was followed by Samuel Johnson, another amateur anthropologist.¹²¹ Then in the late eighteenth century and nineteenth century more works were dedicated to the Yoruba language and culture.¹²² Many focused on specific Yoruba people. Later classics in African anthropology includes the works of Holley on the Yoruba of Nigeria,¹²³ Monika Hunter in 1936 on the change of African hunters to urban and agricultural wage earner,¹²⁴ Daryll Forde¹²⁵ 1954 on the social values of the African people, Jones on the Ibos of Nigeria,¹²⁶ John Peel on Yoruba religion,¹²⁷ Karine Barber on the Yoruba theatre,¹²⁸ Aiden Southall on the Alur society¹²⁹ and Insa Nolte on the Yoruba of Nigeria.¹³⁰

In this thesis, the anthropological works on African dispute resolution is divided into two: works on acephalous societies with little or no centralised system of government (those

¹¹⁷R. Glynn., *Mary Kingsley in Africa. Her Travels in Nigerian Equatorial Africa Told Largely in Her Own Words* (G. George Harrap & Co. Ltd., 1956) See also K. Frank., *A Voyager Out: The Life of Mary Kingsley* (Tauris Parke Paperbacks, 2005).

¹¹⁸R. Glynn., (1956) Ibid. p.137

¹¹⁹At a similar time period Maine an anthropologist studied the dispute resolution of ancient societies writing extensively on the dispute resolution of ancient societies and the place law had in their lives. H.S Maine., *Ancient Law: its Connection with the Early History of Society, and Its Relation to Modern Ideas* (6th edition. London: John Murray) p. 105

¹²⁰S.A Crowder., *A Grammar of the Yoruba Language* (Seeleys, 1852)

¹²¹S. Johnson., *The History of the Yoruba from the Earliest Times to the Beginning of the British Protectorate*. Lagos.

¹²² O.J Lucas., *The Religion of the Yoruba: Being an Account of the Religious Beliefs and Practices of the Yoruba Peoples of Southern Nigeria Especially in Relation to the Religion of Ancient Egypt* (Lagos Nigeria CMS Bookshop, 1948)

¹²³M. Holley., *Voyage dans le Yoruba* (Les Missions Catholiques, 1885)

¹²⁴M. Hunter., *Reaction to Conquest: Effects of Contact with Europeans on the Pondo of South Africa* (London, H. Milford, Pub. for the International Institute of African Languages & Cultures by the Oxford University Press, 1936)

¹²⁵D. Forde., *African Worlds: Studies in the Cosmological Ideas and Social Values of African People* (Oxford University Press, 1954)

¹²⁶G.I Jones., *The Trading States of the Oil Rivers: A Study of Political Development in Eastern Nigeria* (James Currey Publishers, 2000)

¹²⁷J.D.Y Peel., *Religious Encounter and the Making of the Yoruba* (Indiana University Press, 2000)

¹²⁸K. Barber., *The Generation of Plays: Yoruba Popular Life in Theatre* (Indiana University Press, 2000)

¹²⁹A. Southall., *Alur Society: A Study in Processes and types of Domination* (Lit Verlag Munster, 2004)

¹³⁰I. Nolte., *Obafemi Awolowo and the Making of Remo: The Local Politics of a Nigerian Nationalist* (Edinburgh University Press for the International Africa Institute, 2009)

societies whom Norbert Rouland referred to as elementary societies) and societies with centralised government (those whom Rouland referred to as complex societies).¹³¹

1.5.1.1 Elementary Societies

For those in non-centralised societies, or societies with very elementary forms of governance, separation as a means of dispute resolution was possible because there were unoccupied lands to go and there were no authorities that prevented their separation. Also, resolution was by the agreement of the parties in dispute and not by any coercion of any central authority.¹³² As in the case with the fall of the old Oyo kingdom large group of people migrated because of the breakup of the kingdom. Oguntomisin noted that“...a great number of... refugees did not migrate as individuals but as large groups...”¹³³ Also, Roberts, a legal anthropologist, stated that hunters and gatherers, such as the Hadza of Tanzania and some groups of Inuit, are generally known for their dispersal by way of separation as a conflict resolution mechanism.¹³⁴ Roberts noted that dispersal by these groups were either on a temporary or on a permanent basis.¹³⁵ According to Marlowe, this method of settling conflict can only work when food is abundant and the people can afford to live apart such as the case with the Hadza of Tanzania.¹³⁶ But groups of Kung Bushmen of the Kalahari desert cannot afford to separate because of the constant fear of endangering their survival.¹³⁷ Thus living apart is not an option for settling conflicts within all groups.¹³⁸ Ellis also noted that there were limitations to separation as a means of dispute resolution even in societies where separation would otherwise be viable, namely, on the ground of inadequate land resources.¹³⁹

The control mechanisms between different groups of hunters and gatherers are thus defined by their unique physical environment, not by internal rules and governance or by external laws or other State governance because the ultimate goal was for peace.¹⁴⁰ The causes of

¹³¹N. Rouland., *Legal Anthropology* (The Athlon Press, 1994) p. 265-266

¹³² Lee, R.B., (1984) Ibid.

¹³³G.O Oguntomisin., ‘Political Change and Adaptation in Yorubaland in the Nineteenth Century’ *The Canadian Journal of African Studies*. (Taylor and Francis Ltd on behalf of The Canadian Association of African Studies) vol. 15. no. 2., 1981 p. 223-237 [225]

¹³⁴S. Roberts., (1979) Ibid. p. 84

¹³⁵S. Roberts., (1979) Op Cit. p. 84

¹³⁶ F. Marlowe., *The Hadza: Hunter-Gatherers of Tanzania* (1st edition, University of California Press, 2010) p. 39-68 Retrieved from www.jstor.org/stable/10.1525/j.ctt/pp172

¹³⁷ R.B. Lee., *The Intensification of Social Life Among the! Kung Bushmen*. (MIT Press, 1972)

¹³⁸S. Roberts., *Order and Dispute: An Introduction to Legal Anthropology* (Penguin Books’ 1979) p. 85

¹³⁹C. Ellis., ‘Hunting and Gathering Societies’ Lecture Notes of University of Western Ontario in W. Lomas ‘Conflict, Violence and Conflict Resolution in Hunting and Gathering Societies’ *Journal of Anthropology* (The University of Western Ontario) vol. 17. Issue 1., 2009 p. 45

¹⁴⁰ L. Marshall., L (1961) Ibid and C. Schrire., ‘An Inquiry into the Evolution Status and Apparent Identity of San Hunter-Gatherers’ *Human Ecology* vol. 8, 1980, p. 9-32

conflicts that require separation by dispersal either of a section of the group or of the whole group when it splits up which Bohem reported were mostly the need for mutual respect and the desires of hunters to maintain personal freedoms.¹⁴¹ Examples of elementary societies shows that physical separation was possible as a conflict prevention and dispute resolution process.

1.5.1.2 Semi-Complex Societies

The observations of Marlowe, Lee, Roberts, Ellis and Bohem on non-centralised societies bear great similarities with those societies which have a form of rudimentary governance (semi-complex societies some with chiefs and subjects) because both societies do not have internal laws that govern dispute resolution. However, in societies with some form of government, feuds, negotiations and traditional mediation and arbitration formed their dispute resolution rather than physical separation. For example, in his study of the Tswana society, Schapera observed that the Tswana had chiefs who ruled over the tribe before the colonial era. According to Schapera, "...the Chief is...not only the ruler of the tribe. He is also the visible symbol of its cohesion and solidarity."¹⁴² The chief administers justice and the chiefly sanctions ensured compliance, although Schapera noted that the sanctions did not "involve any direct coercion on the part of the chiefs."¹⁴³ The Tswana had several grades of courts in each tribe with other bodies sometimes helping to settle disputes such as between family-groups.¹⁴⁴ According to Schapera, the arrival of the colonial powers meant changes to the Tswana laws. Certain offences were taken away from the Tswana courts to be tried only in the colonial courts. Schapera noted that the chiefs being influenced by conversion to Christianity and the desire to keep pace with modernity, also made these changes.¹⁴⁵ However, the people also recognised their traditional processes of dispute resolution. Traditional mediation and arbitration rather than separation was dispute resolution of the Tswana, essentially because they had some form of authority to mediate, so separation would not have been a suitable option for conflict resolution.

¹⁴¹C. Bohem., *Hierarchy in the forest: The Evolution of Egalitarian behaviour* (Cambridge Mass. Harvard University Press, 1999) p. 68

¹⁴²I. Schapera., (1938) Ibid. p.5

¹⁴³I. Schapera., (1938) Op cit. p. 36

¹⁴⁴I. Schapera., *A Handbook of Tswana Law and Custom Compiled for The Bechuanaland Protectorate* (Oxford University Press, 1938) p. 280

¹⁴⁵I. Schapera., *A Handbook of Tswana Law and Custom Compiled for The Bechuanaland Protectorate* (Oxford University Press, 1938) p. 43

The Tonga group which Colson studied also had a form of government.¹⁴⁶ While the pre-colonial Tonga made use of vindictive force to resolve quarrels, the presence of the British Administrators, prevented such vindictive actions.¹⁴⁷ However she added that: "...underneath this superstructure one can still see the interplay of the old forms of social control."¹⁴⁸

The above discussion demonstrates the importance of studying the old and new to discover how the interplay affects the present-day conflicts and disputes resolution in societies. Although semi-complex societies did not show a need for physical separation as did the elementary societies, the third types of societies discussed below have unique features that can allow for other forms of separation for resolving conflicts. The Yoruba sub-groups, such as the Ife and the Modakeke, fall into the next category, namely, complex societies.

1.5.1.3 Complex Societies

Societies that had more centralised governments with kings and subjects living during colonial era and the modern State, practised traditional negotiation, mediation, and arbitration and most had courts for formal litigation rather than separation. An example is the Tiv of Nigeria studied by Bohannan.¹⁴⁹ Bohannan wrote that the Tiv had leaders whom he described as having "experience"¹⁵⁰ and acting as arbitrators in quarrels both within lineages and between strangers. He noted that the Tiv recognised use of traditional arbitration as to "sit and listen quietly and dispassionately to all sides of a dispute, then...give a just decision."¹⁵¹ Also the Kgatla, studied by Schapera, were a society with centralised government¹⁵² with negotiation and mediation that gave way in the last resort to court processes before the chief who has power to enforce the decision.¹⁵³ Decisions usually resulted in corporal punishment, confiscation of stock, or deprivation of the use of land allocated to the individual.¹⁵⁴ Appeal lay to the head chief who had the capacity to impose a decision after mediating and he had the capacity to enforce such decisions.¹⁵⁵ Both the Tiv and the Kgatla peoples, as with other complex societies, did not practice physical separation as dispute resolution process, mainly

¹⁴⁶E. Colson., *The Plateau Tonga of Northern Rhodesia Social and Religious Studies* (Manchester University Press, 1962) p. 207

¹⁴⁷E. Colson., (1962) Ibid. p. 111

¹⁴⁸E. Colson., (1962) Op cit. p. 111

¹⁴⁹P.J Bohannan., *The Tiv of Central Nigeria* (International African Institute, 1969).

¹⁵⁰P.J Bohannan., (1969) Ibid. p. 36

¹⁵¹P. Bohannan., *Justice and Judgement among the Tiv* (Oxford University Press, 1957) p. 2

¹⁵²S. Roberts., *Order and Dispute: An Introduction to Legal Anthropology* (Penguin Books, 1979) p. 152

¹⁵³S. Roberts., (1979) Ibid. 152

¹⁵⁴Roberts, S., (1979) Op cit. p. 151

¹⁵⁵S. Roberts., *Order and Dispute: An Introduction to Legal Anthropology* (Penguin Books, 1979) p. 151

because they had authorities to enforce judgments and, therefore, they did not need to resort to any sizeable section of the group physically moving away from the rest of the group so as to prevent or resolve conflicts. Similar complex societies today, with plural systems that recognise traditional authority, and sub-State authority in modern State systems have higher authorities to enforce judgments in order to resolve conflicts and disputes. The Yoruba of Nigeria had similar complex structure such as the Kgatla and the Tiv in pre-colonial times. They had kings whom they recognise as having authority over them and were able to resolve their conflicts.¹⁵⁶ But because modern day Yoruba groups recognise the authority of both their king and the modern State government, situations where physical separation is not possible, other forms of separation to resolve their conflict is feasible due to the structure of the modern State.¹⁵⁷ While the anthropology of conflict and dispute resolution shows that plural societies are very unlikely to separate physically in order to prevent and resolve conflicts and disputes, the social structure of plural societies in modern times reveal other features of separation. This thesis recognises that, the legal pluralism of some traditional societies living in the modern era does not allow for physical separation. Nevertheless, this paper also explores other methods of separation that are available to groups in order to resolve their conflicts and disputes.

1.5.2 The Sociology of Conflict Resolution in Africa

The sociology of conflict resolution in Africa demonstrates the need to study the norms of a society in order to settle their conflict. Social groups with complex political structures in pre-colonial times in Africa, such as the Ife and the Modakeke, have moved from being solely ancient complex societies-with kings and social norms into plural societies where local traditions and norms are observed alongside processes found in modern States (colonial and independent States).¹⁵⁸ Therefore, it is important and necessary to discuss groups' social norms and the role of the State in conflict resolution in order to adequately address the plural nature of these societies.

Writing about the benefits of studying African norms and customs for resolution of conflicts and disputes, Olaoba and Ayewo¹⁵⁹ argued that conflicts tend to continue when local people

¹⁵⁶Details of Yoruba social, economic and political structure in pre-colonial times is provided in chapter 3

¹⁵⁷The features of the modern State and how it affects Ife-Modakeke separation is discussed in details in chapter 5

¹⁵⁸E. Colson., *The Plateau Tonga of Northern Rhodesia Social and Religious Studies* (Manchester University Press, 1962) p. 111

¹⁵⁹O.B Olaoba & A.A Oyewo., *A Survey of African Law and Custom with Particular Reference to the Yoruba Speaking Peoples of South-Western Nigeria* (Jator Publishing Company Ibadan, 1999)

are not allowed a major participation in their own dispute resolution.¹⁶⁰ Considering that the social norms and customs of the people are important in ordering a society and resolving conflicts, this section of the literature review examined sociologists' theories of ethnic conflict in line with the norms and customs of the Ife-Modakeke group.

The major theory of group conflict considered here is in relation to groups' perception of their social identity and political status in relation to other groups that lives around them. In his study of the sociology of group conflict, Brown noted that intergroup similarities lead to intergroup conflicts because when there is an increase in similarity between two groups, it tends to threaten the identity of both groups thus affecting their distinctiveness.¹⁶¹ Although this goes against the proposition that 'like attracts like', as postulated by Newman,¹⁶² Brown noted that attraction of dissimilar groups is only biological and does not necessarily translate into the reality of social group existence.¹⁶³ Also, Turner maintains that two groups with different status positions will always be in conflict because the superior group wants to maintain its status while the inferior group seeks liberation from an inferior position.¹⁶⁴ Blumer also argued that group prejudice comes when a group feels threatened in its position.¹⁶⁵ With such threat comes violence.¹⁶⁶

In the case of Nigeria, with specific relevance to the Ife and the Modakeke, Samuel Johnson's¹⁶⁷ history of the Yoruba is one of the earliest systematic recordings of the Yoruba people and the Ife conflicts and wars. His work shows that the norms of the Yoruba regarding land and the position of settlers in a group, caused conflict between Yoruba sub-groups. In addition, norms of societies such as discriminatory norms of indigene-settler status, in terms of land tenure, leads to a position of superiority of one group against the other; thus, there is an attractiveness of separation for such groups. For example, Fadipe wrote on the indigene-settler relationship of groups in Nigeria created by the pre-colonial social structure of the

¹⁶⁰Olaoba, O.B., & Oyewo, A.A., (1999) Ibid p. 9

¹⁶¹R.J Brown., *Competition and Cooperation between Similar and Dissimilar Groups* (Unpublished PhD Thesis University of Bristol, 1978) In S. Aharpour., (1999) *Social Identity Theory and Group Diversity: An Analysis of Functions of Group Diversity* (University of Kent Canterbury, 1999)

¹⁶²T.M Newcomb., *The Acquaintance Process* (NY. Holt, Reinehart & Winston, 1960)

¹⁶³R.J Brown., (1978) Ibid.

¹⁶⁴J.C Turner., 'Social Categorization and Social Comparison in Intergroup Relations' (Unpublished PhD Thesis University of Bristol, 1975) In S. Aharpour., *Social Identity Theory and Group Diversity: An Analysis of Functions of Group Diversity* (University of Kent Canterbury, 1999)

¹⁶⁵H. Blumer., 'Race Prejudice as a Sense of Group Position' *Pacific Sociological Review* vol. 1. p. 3-7 [5]

¹⁶⁶R. Hardin., *One for All the Logic of Group Conflict* (Princeton University Press, New Jersey, 1995) p. 7

¹⁶⁷S. Johnson., *The History of the Yoruba from the Earliest Times to the Beginning of the British Protectorate* (George Routledge & Sons Ltd, Lagos, 1921)

Yoruba of Nigeria.¹⁶⁸ According to Fadipe, a native/indigene and a settler/non-indigene were identified by their respective rights over land. Thus, the settler only had rights of use of a native's land with the native's permission, guaranteed by the payment of a token called Ishakole as an acknowledgement of the native's over lordship.¹⁶⁹ Not only is Ishakole a status issue, it is also an economic burden on the settler. Consequently, it can be expected that, where a settler group can be relieved of the duty to pay Ishakole, such a group would welcome the change in status and advantageous economic position. As noted above, there are, nowadays, no opportunities for large groups to separate and re-settle elsewhere (without there being a refugee crisis). Accordingly, where there is an opportunity to achieve the same change of position without physical separation, a settler group would gladly take that opportunity. That opportunity might be the offer of allocation of land tenure freed from Ishakole and a separate Local Government. This will be considered further below.

The same was true of Mamdani who wrote on the role of the colonial state and the modern state in creating a culture of entitlement within groups and encouraging unequal access to devolved power such as access to Local Government area for groups that need one.¹⁷⁰ Although, he addressed the issue of Nigerian Federal structure as contributory to ethnic conflict in the country, he did not discuss how this can be remedied in order to resolve long standing ethnic conflicts in the country. Akanji, on the other hand, analysed the effect of the settler-native relationship in Nigeria in promoting sub-ethnic inequalities that make access to State resources a problem in Nigeria, thus increasing ethnic conflicts in the country. He traced the social relationships between ethnic and sub-ethnic groups in Nigeria in pre-colonial times to highlight the effect of dual political loyalties and identities created by the social structure of sub-groups in Nigeria, and which were aggravated by the Federal structure of Nigeria. Akanji also noted the negative role in group conflicts of over reliance on State funds, rightly stating that “the issues of access to resources...exacerbated the problem of ethnic politics during the colonial and post-colonial periods.”¹⁷¹

¹⁶⁸N.A Fadipe., *The Sociology of the Yoruba* (Ibadan University Press, 1970) p. 169-178

¹⁶⁹N.A Fadipe., (1970) Ibid

¹⁷⁰M. Mamdani., ‘Beyond Settlers and Native as Political Identities: Overcoming the Political Legacy of Colonialism’ *Comparative Studies in Society and History* (Cambridge University Press) vol. 43. no. 4. Oct. 2001, p. 651-664 [658]

¹⁷¹O.O Akanji., ‘The Problem of Belonging: The Identity Question and the Dilemma of Nation-building in Nigeria’ *African Identities* (Routledge Taylor & Francis Group) vol. 9. no.2 May 2010, p. 117-132[118]

Suleiman and Maiangwa examined who was to blame for Nigeria's persistent combative identities carried out by ethnic groups.¹⁷² They traced the blame from the colonial days to late colonial times and then to post-colonial times.¹⁷³ What they did not do was to examine pre-colonial Nigerian tribal group norms in order to discover the combative nature of such groups and how they were transformed into modern day conflicts. This thesis deals with identifying the reason for the Ife-Modakeke persistent combative behaviours since the pre-colonial times.

Further, as has been mentioned earlier, the social structure of a group can influence their method of dispute resolution. For example, some groups have kinship ties which makes separation unlikely. The! Kung bush men, being a typical example of small groups with strong social and economic ties that makes it difficult to separate physically, even during intra-group conflict.¹⁷⁴ Studies by both Johnson and Akinjogbin show that the Ife-Modakeke lack such intra-group ties because the Modakeke do not regard themselves as Ifes, thus making separation more favourable for their conflict resolution. Akinjogbin stressed that the historical consciousness of an average Yoruba is restricted to his sub-cultural group and not the whole Yoruba land.¹⁷⁵ In situations where there is intra-group conflict, lack of common ground within the group, such as lack of similar status, interest and tasks, will be important. Williams,¹⁷⁶ Pettigrew and Tropp¹⁷⁷ noted that groups will not benefit from contact between conflicting factions being encouraged to reduce prejudice and violence against one another. In fact, McClendon has stated that the body of work done on contact theory is not expected to produce a reduction of prejudice among groups in conflict.¹⁷⁸ However, since physical separation is not feasible, the idea of contact theory does not apply directly to resolving intra-group conflict by economic and political separation. But, contact theory might have a role to play in regard to non-physical separation. Where the two groups remain in close physical proximity to one another. Contact theory although will help in non-physical separation is not explored in this thesis as the aim is to address the economic and physical separation of the groups. Contact theory can be explored in further research.

¹⁷²M.D Suleiman., & B. Maiangwa., 'Nigeria and the 'Making' of Combative Identities' *African Identities* (Routledge Taylor & Francis Group) vol. 15. no. 3., 2017. p. 260-277

¹⁷³M.D Suleiman & B. Maiangwa., (2017) Ibid. p. 260-277.

¹⁷⁴S. Roberts., *Order and Dispute: An Introduction to Legal Anthropology* (Penguin Books, 1979)

¹⁷⁵Akinjogbin, A., (1998) *War and Peace in Yorubaland 1793-1893* (Heinemann Educational Books Nigeria) p. 16

¹⁷⁶R.M William jr., *The Reduction of Intergroup Tensions* (New York: Social Sciences Research Council, 1947)

¹⁷⁷T.F Pettigrew & L.R Tropp., 'Does Intergroup Contact Reduce Prejudice? Recent Meta-analytic Findings' in S. Oskamp., (ed) *Reducing Prejudice and Discrimination: Social Psychological Perspectives* (Mahwah NJ Erlbaum, 2000) p. 93-114.

¹⁷⁸M.J. McClendon., 'Interracial Contact and the Reduction of Prejudice' *Sociological Focus* vol. 7. 1974, p. 47-65 [52]

Another theory of group conflict is the State as contributor to group conflict. Academic studies have shown that the modern State by means of ineffective intervention in group conflicts and by exclusion policies, have contributed to group conflict. Subaru's work on ethnic minority conflicts demonstrates that the lack of effective intervention by the Nigerian State in ethnic conflict situations was largely due to over centralization of power and resources in the Federal government.¹⁷⁹ He observed that determination of Local Government boundaries, which is the cause of some group conflicts in Nigeria, "are best left to sub-national authorities or communities to decide."¹⁸⁰ However, what Suberu did not address is what happens when such sub-national authorities fail to resolve long standing group conflicts such as the Ife-Modakeke. In such circumstances, apparently, the State may be the only available authority to resolve such conflicts.

Also, on State contribution to group conflict, Esman has argued in his work on group conflicts that State policies whether positive action policies or negative inaction policies¹⁸¹ precipitate most contemporary ethnic conflicts, and the very nature of the post-colonial State encourages exclusion of subordinate groups.¹⁸² Sorbo and Vale support this theory, pointing out that African governments have played a varied role in conflicts in Africa, such as "instigating" and "supporting" the resolution of conflicts. But they argue that African governments have "sustained conflicts...to serve their own interest."¹⁸³ They argue that people lose interest in government attempts to end conflicts because governments adopt exclusion policies where one group is excluded from gaining access to power due to discriminatory norms.¹⁸⁴

More recently Boone's work on land conflicts in Africa and the role of the State in continuing such conflicts helps to corroborate this theory. Using examples from Burkina Faso and Ghana, Boone demonstrates that ethnic hierarchies built into land tenure exist as a result of the State institutionalising such hierarchies, starting from the colonial administrations that used land as "markers of political status."¹⁸⁵ She further argues that the State "imposes social subordination, economic vulnerability, and the norm of deference toward indigenous hosts on

¹⁷⁹R.T Suberu., *Ethnic Minority Conflicts and Governance in Nigeria* (Spectrum Books Ibadan, 1996) p. 67

¹⁸⁰R.T Suberu., (1996) Ibid. p. 67

¹⁸¹Emphasises are those of the author of this thesis

¹⁸²J.M Esman., *Ethnic Politics* (New York: Cornell University Press, 1994) p. 19

¹⁸³M. Gunnar Sorbo & P. Vale., *Out of Conflict from War to Peace in Africa* (Nordiska Afrikainstitute, Uppsala, 1997) p. 132

¹⁸⁴M. Gunnar Sorbo & P. Vale., (1997) Ibid. p. 141

¹⁸⁵C. Boone., *Property and Political Order in Africa. Land Rights and the Structure of Politics* (London School of Economics and Political Science. Cambridge University Press, 2014) p. 105

the ethnic strangers...”¹⁸⁶ By upholding customary land tenure regimes, the State reproduces and confirms the hierarchical structure of the local political arena.¹⁸⁷ In relation to Nigerian experiences, Mamdani wrote on the effects of colonialism on Africa. His main contention was that colonialism was not just felt economically in Africa because, he argues, most of the literature expands more on the economic effects, and not on the creation of discrimination in African ethnic groups by encouraging cultural identity above national identity.¹⁸⁸ He emphasized the differences between cultural and political identities.¹⁸⁹ He argued mainly on the detrimental effect of the colonial powers governing ethnic groups through customary laws, not through non-criminal laws, creating differences between races (non-natives) and ethnicity (natives) between civil rights and customs and between civil laws and customary laws. Civil laws, Mamdani argued, sets “limits to power” and “civic power was to be exercised within the rule of law and had to observe the sanctity of the domain of rights.” However, customary laws he argues “*enabled* power instead of checking it by drawing boundaries around it. In such an arrangement, no rule of law was possible.”¹⁹⁰ Mamdani stated that the colonial state gave civil rights to settlers and customary laws to natives/indigenes, according to him “rights belonged to non-natives. Natives had to live according to custom.”¹⁹¹ This created a dual system of rights in the colonial era.

Mamdani argues further that the post-colonial State, which he calls the “mainstream nationalist” State, inherited and reproduced the dual identity created by the colonial State: that of natives/indigenes and non-natives (or settlers as used by the modern State) and native rights and non-native rights. In his words, however, the post-colonial State not only gave civil rights to all citizens, both natives and non-natives (indigenous and non-indigenous), but the State also gave discriminatory customary rights as a bonus to the indigenous citizens.¹⁹² Thus the post-colonial State reproduced a system of inequality that haunts ethnic groups in Africa today, including those living in Nigeria. In fact, Mamdani stressed that “[e]ven with the Colonial power gone, we keep on defining every citizen as either a native or a settler”¹⁹³ The

¹⁸⁶C. Boone., (2014) Ibid. p. 106

¹⁸⁷C. Boone., (2014) Op cit. p. 109

¹⁸⁸M. Mamdani., ‘Beyond Settlers and Native as Political Identities: Overcoming the Political Legacy of Colonialism’ *Comparative Studies in Society and History* (Cambridge University Press) vol. 43. no. 4. Oct 2001, p. 651-664

¹⁸⁹M. Mamdani., (2001) Ibid. p. 652

¹⁹⁰M. Mamdani., (2001) Op cit. p. 654.

¹⁹¹M. Mamdani., ‘Beyond Settlers and Native as Political Identities: Overcoming the Political Legacy of Colonialism’ *Comparative Studies in Society and History* (Cambridge University Press) vol. 43. no. 4. Oct. 2001. p. 651-664[654]

¹⁹²M. Mamdani., (2001) Ibid p. 658

¹⁹³M. Mamdani., (2001) Op cit p. 659

problem with such dual citizenship identity is that some become privileged and some under-privileged and this inevitably leads to conflict such as between the Ife and the Modakeke, with the settler community (the Modakeke) wanting emancipation from the privileged native community. Describing the situation in the best of ways, Mamdani stated that the State has developed “the culture of entitlement as a form of Justice....the bearers of mainstream nationalism-have succeeded in redefining yesterday’s natives into postcolonial settlers and postcolonial natives.”¹⁹⁴ The Nigerian State is guilty of reproducing such dual identities of indigene/settler that create and fuel conflicts between ethnic groups through laws such as the Federal character system in the 1999 Constitution of Nigeria.

Considering that the Ife and the Modakeke are part of the modern State and the potential for their political and economic separation lies in the powers of the State, advising the State to address the indigene-settler hierarchy in the 1999 Constitution is of importance in ending the Ife-Modakeke conflict. However, to support this advice, the legal platform for such changes, and the consequences for not making the changes, have to be addressed. The legal framework for amending the Constitution and granting separation of the Modakeke from the Ife is now analysed along the lines of previous legal studies in conflict resolution.

1.5.3 Legal Studies on Conflict Resolution

This thesis uncovers the level of economic and political influence the State has over ethnic groups, with particular reference to the Ife and the Modakeke groups and their conflict. This includes analysis of the Nigerian Constitution and its impact on group access to devolved powers through Local Government creation, fiscal Federalism, indigene-settler relationship, and the granting of internal self-determination in furtherance of human rights protection and Nigeria’s responsibility to protect citizens from genocide. The justification for this examination is that the “current structure of Nigerian Federalism incites communal conflict.”¹⁹⁵ In order to address separation as a means of ending the Ife-Modakeke conflict, the legal framework that affects the conflict must first be analysed.

¹⁹⁴M. Mamdani., ‘Beyond Settlers and Native as Political Identities: Overcoming the Political Legacy of Colonialism’ *Comparative Studies in Society and History* (Cambridge University Press) vol. 43. no. 4. Oct. 2001. p. 651-664 [660]

¹⁹⁵I. Nolte., ‘Federalism and Communal Conflict in Nigeria’ *Regional & Federal Studies*, vol. 12 no. 1, 2002, p. 171-192 [171]

1.5.3.1 The Impact of the Nigerian Constitution on the Ife-Modakeke Conflict

Section 7 of the 1999 Constitution of the Federal Republic of Nigeria makes provision for the creation of Local Government areas by states. The idea is to bring governance to grass-roots communities, ensuring an important measure of economic and political autonomy to the people.¹⁹⁶ Local Government brings a measure of autonomy to groups from Federal and state controls, although not total autonomy. The challenges facing Local Government in Nigeria, with regards to revenue generation and allocation, puts the idea of separation in a difficult solution to the Ife-Modakeke conflict. The fact is that most Local Governments only generate 10% of the revenue required to meet recurrent expenditure.¹⁹⁷ This is confirmed by the data collected by Yakubu on Local Government revenue generation showing very low yields from the sources of revenue falling within the jurisdiction of Local Governments in Nigeria.¹⁹⁸ This makes Local Governments in heavy reliance on Federal money from oil extraction, agriculture and taxes.¹⁹⁹ Where a new Local Government cannot be funded, what possibility is there for advising on creating a Local Government for the Modakeke to resolve the Ife-Modakeke conflict.? The feasibility of creating a Local Government is an issue that this thesis explores in chapter 7.

Further, when the groups are not separated economically and politically, conflict has tended to continue with the intensity of borderline genocide. The human rights of the citizens of both groups continue to be breached as violence is carried out and Nigeria fails in its responsibility to protect groups in times of violence. These failures introduce the African Union to the conflict, as the AU have intervened to help States with group conflicts such as Burundi, Libya and South Sudan. Africans seeking to resolve African problems without the involvement of any intervention by the West led to the formation of the Organisation of African United (OAU) in 1993 now replaced with the African Union (AU) in 1999.²⁰⁰ Regardless of this, the benefits of the AU intervening in the Ife-Modakeke conflict by virtue of Article 4(h) of the

¹⁹⁶ I.B Bello-Imam., *The Local Government System in Nigeria* (College Press & Publishers Limited Lead City University, Ibadan, 2007) p. 12-15

¹⁹⁷ N.F Mendie., *Local Government and Conflict Management in Nigeria* (Afahaide and bros Printing and Publishing co. Joemason Printers Uyo, 2000-2002) p. 26

¹⁹⁸ J.A Yakubu., *Socio-Legal Essays in Local Government Administration in Nigeria* (Demyaxs Law Books, Ibadan Nigeria, 2003) p. 19

¹⁹⁹ The nature of the Nigerian fiscal federalism which has been studied by renowned scholars such as professor Nolte and Falola is analysed in chapter 6 of this thesis.

²⁰⁰ P.D Williams., 'Keeping the Peace in Africa: Why "African" Solutions are not Enough' *Ethics and International Affairs*, *Carnegie Council of International Affairs*, 2008, p. 311-312

African Union Constitutive Act²⁰¹ is yet to be studied and this thesis attempts a discussion that can be furthered in future studies.

1.5.3.2 International Law and Separation of the Groups

In the present state of legal affairs in Nigeria, section 12 of the 1999 Constitution requires local legislative sanctions for international treaties to be effective in Nigeria. While Nigeria refused to vote for the United Nations Declaration on the Rights of Indigenous Peoples 2007 on issues of self-determination, Nigeria gave international ratification to the African Charter in June 1983²⁰² and by virtue of an Act of Parliament- the African Charter on Human and Peoples Rights (Ratification and Enforcement) Act 1990.²⁰³ Both the UN Declaration and the African Charter provide for the right of self-determination of peoples. These international instruments are relevant to the way in which the Nigerian State conducts itself within its territorial boundaries. Specifically, for the purposes of this thesis, those instruments affect the obligations of the Nigerian State towards the Modakeke because Nigeria cannot avoid its international obligations by relying on its own laws.²⁰⁴ Where does it place the Nigerian government and the Ife-Modakeke groups? These issues will be examined by reference to the research questions outlined earlier in this chapter. The research question limits the scope of the thesis as shown below.

1.6 Scope of the Study

This thesis is primarily concerned with the necessity for separating the Modakeke from the Ife, and the viability of doing so by means of economic and political measures put into effect by the Nigerian government. In order to achieve the aim of the thesis, this thesis will explore the Yoruba history in relation to the Ife-Modakeke, the anthropology, sociology, the economic and political aspects of the relationship between the Ife and the Modakeke, the relationship between the two communities and the Nigeria State, as well as the international community. The thesis examines the relevant literature, identifies and explores relevant archival materials, and provides empirical evidence in support of the arguments offered. Sichone has rightly

²⁰¹Constitutive Act of the African Union adopted by the thirty-sixth ordinary session of the Assembly of heads of State and Government 11 July, 2000. Online: https://au.int/sites/default/files/pages/32020-file-constitutiveact_en.pdf

²⁰²Ratification table: African Commission on Human and Peoples Rights. Online: <http://www.achpr.org/instruments/achpr/ratification/>

²⁰³The African Charter on Human and Peoples Rights (Ratification and Enforcement) Act 1990. Chapter 10 Laws of the Federation of Nigeria 1990.

²⁰⁴Articles 3 and 4 of the Vienna Convention on the Law of Treaties (with annex) Concluded at Vienna on 23 May 1969. Online: <https://treaties.un.org/doc/publication/unts/volume%201155/volume-1155-i-18232-english.pdf>

noted that “all anthropologist does some research at home” Although this is not a pure anthropological work, it involves some aspects of anthropology of the groups being studied. Therefore, it was the privilege of the researcher to do some fieldwork among the Ife and the Modakeke groups in 2014.²⁰⁵

The historical part of the thesis neither intends to be a comprehensive review of works on the Yoruba or Ife-Modakeke conflict nor attempts to deal with all the neglected themes. Rather, it focuses on the place of separation as dispute resolution mechanism for resolving the Ife-Modakeke conflict. Given the long years of conflict and the diverse nature of the conflict, a coherent historical narrative is not possible. However, to enhance clarification and easy flow of the reading a few repetitions are included deliberately. It is worthy of note here that Yoruba orthography is being modernised and on expert advice, the new form has been used much in this work. Thus, the thesis does not spell personal names and places in the original forms as they appear.

The empirical/fieldwork research is restricted to two sub-groups in Nigeria even though there had been many group conflicts²⁰⁶ in Nigeria. Also, although there had been many works on the Ife-Modakeke conflict, Ntarangun had rightly noted that “repeated consultancies in the same community or with the same group of people could result in an accumulated set of data that, overtime, amounts to critical ethnography.”²⁰⁷ The purpose of restricting the case study to the sub-groups is simple. The interest of the researcher is in the possibilities of separating group norms from modern politics to give all groups the same access to devolved government. This is examined through the eyes of self-determination and group autonomy. The researcher argues that in the case of the Ife-Modakeke conflict resolution, this can be achieved by granting internal self-determination to the Modakeke group and not through actual secession from the Nigerian State. The Nigeria Biafra could have been used as a case study but it involved attempt at actual secession from the Nigerian State. The Niger Delta conflicts, although well documented, are not in actual relevance to this study as it involves mainly resource control not self-determination by separation. The other relevant group conflict that was initially attempted but dropped at a later stage of this thesis as a result of the restricted time-scale is the Aguleri-Umuleri conflict as it deals with land conflict and many court

²⁰⁶Tribal conflicts in Nigeria includes Zango Kataf in Kaduna between the Hausa and Kataf, Aguleri and Umuleri in Anambra State, Jos crisis between the Hausa Fulani and Beron/Anaguta/Afizere, Ife/Modakeke crisis, Niger Delta crisis and the Ogoni struggles.

²⁰⁷M. Ntarangun, D. Mills & M. Babiker., *African Anthropologies: History, Critique, and Practice* (Zed Books, 2006) p. 31

processes of State intervention. The Ife-Modakeke conflict focus mainly on social conflict resulting from discrimination, self-identity and territorial disputes and rarely involve court processes.²⁰⁸ Also, as a result of the present unrest in Nigeria, the study avoided exploring on-going religious conflicts and terrorist activities such as the Boko Haram. The researcher takes an objective, non-participatory stance in her study of both communities.

The Ife-Modakeke conflict has been selected as a representative case study considering its negative impact on the lives of the Ife-Modakeke peoples and Nigeria's economy and image outside the country. As was shown in the background to the study, the Ife-Modakeke conflict affects the lives of both groups as well as all citizens of Nigeria. The economy of Nigeria is also affected when there is constant outbreak of group conflict in the country especially as Nigeria is identified as "the world's sixth largest producer of oil"²⁰⁹ and receives 95% of her export earnings from oil and gas with 80% of Government revenue coming from the same source.²¹⁰ Suggesting that readership and audience of the resolution of the Ife-Modakeke conflict in this thesis will be wide and diverse.

The relationship between the Ife-Modakeke groups and the Nigerian State social, economic and political structure as well as the benefit of separating the groups under international and regional laws is also examined. The processes of separation of the groups through granting internal self-determination to the Modakeke by Local Government creation touches on Constitutional issues as well as international law doctrines/principles and therefore adequately illustrates the relevance and link between the two. The role of the African Union is also considered because Nigeria although a sovereign nation ²¹¹ has responsibility to protect its citizens from the effects of violent conflicts and failure to carry out this responsibility is an invitation to the international community to intervene to prevent further violations of citizen's rights and protection.²¹² Therefore, the first three research sub-questions addressed the domestic nature of groups in Nigeria. As will be illustrated in the study, groups have moved from isolated traditional States to plural societies where they come under a modern State such as Nigeria that is not just governed by a domestic framework but by international law doctrines of self-determination and the responsibility to protect citizens from human rights

²⁰⁸S. Olayiwola., 'Integrated Education: An Instrument for Resolving Ife-Modakeke Conflict in Osun State, Nigeria' *Journal of Alternative Perspective in the Social Sciences*, vol. 2. no.2. 2010, p. 953-965 [956-957]

²⁰⁹Y. Omorogbe., *Oil and Gas Law in Nigeria* (Malt House Law Books, 2003) p. 19

²¹⁰See Nigeria's 2007 Budget- <<http://budgetoffice.gov.ng/PDF/2007budget.pdf>> Accessed 22nd December 2008.

²¹¹See section 2(1) of the Constitution of the Federal Republic of Nigeria, 1999 Cap 214 Laws of the Federation 2004

²¹²ICISS 'Responsibility to Protect: Report of the International Commission on Intervention and State Sovereignty' December 2001. Ottawa: International Development Research Centre. p. XI

abuses. As a result, the fourth sub-question flows from the first three and deals with the international aspect of the conflict which leads to the fifth sub-question on the urgency of ending the conflict by separation. The research methodology follows the pattern of the research questions by explaining the method used in answering each of the research questions. However, the details of the methodology are set out in a separate chapter (chapter two) because the research methodology is very detailed and interrupts the flow of the narrative in this chapter.

This research takes on an interdisciplinary method, combining anthropology, sociology and law. For anthropologists, this research is aimed at providing an account of traditional settlement systems in the Ife and the Modakeke in relation to their ability to separate for peace in a modern sovereign State. This is aimed at providing an up-to-date example in legal anthropology of the modern realities of the two warring groups in Nigeria.

For sociologists, it hopes to provide enlightenment on the social realities of dual allegiance to traditional norms and modern relationships of warring groups that are part of modern sovereign State system. The attitude and perception of the two groups regarding their conflict and the most appropriate conflict resolution strategy in times of group conflict is analysed. For legal scholars and students, this research hopes to set the legal dynamics in Nigeria in relation to law and order. It hopes to demonstrate how law can be used to promote ancient customs and continued old feuds between groups. It also shows how a group's perception of law in their lives can be changed by availability of information and education.

The study is a qualitative anthropo-social-legal enquiry. It is aimed at gathering as much information as is possible on the conflict in the case studies as a guide to future mediators, who may be called upon to help parties to negotiate their conflicts. The goal of the research is to gather the right and relevant information that is in line with the theoretical frame work developed and to contribute to knowledge.

1.7 Originality and Contribution of the Study

This study is an original contribution because this is the first work to attempt a detailed analysis of the feasibility of resolving the Ife-Modakeke conflict through economic and political separation of the groups. By analysing the social, economic and political history of the two groups and their conflict resolution processes and the present legal and political

position of Nigeria in relation to group norms and self-determination, the thesis demonstrates the benefits and feasibility of separating the groups.

As is demonstrated by means of evidence from the Ife-Modakeke conflict, the thesis compared both Constitutional and system rules between the two groups to help comparative legal theorists and practitioners to examine the sufficiency of the procedural and substantive rules for resolving group conflicts in Nigeria.

The researcher attempted to fill the gap in literature by collecting oral narratives of the perception of the people in Ife and Modakeke regarding unique areas of their conflict resolution through interviews conducted in June/July 2014. The researcher asked questions on the Nigerian State legal and political influence on the conflict resolution and the resultant effect on the ability to resolve the conflict. Specific questions were asked such as those concerning the people's view of the relationship between the two groups to establish current perceptions of the groups with regard to separation of the groups. The researcher asked both groups their views on traditional leaders' autonomy in modern conflict resolution to establish the roadblocks of separation and the possible ways of addressing those blocks. The fieldwork contribution is original to the Ife-Modakeke conflict resolution discussions in Nigeria.

The study found out that the modern State of Nigeria by means of the Constitution and inadequate intervention in conflict promotes norms that exacerbates conflict such as native/indigene-settler/non-indigene norms.²¹³ By so doing, the government exacerbates the difficulties of resolving some group conflict, such as the Ife-Modakeke conflict. The government thus becomes part of the problem not a solution to the problem. The justification for looking into the role of the government in promoting group traditional land norms is to show to the academic community that it does not matter which processes groups prefer, because both traditional processes and government resolution furthers ancient norm of native/indigene-settler/non-indigene status.²¹⁴

Generally, the academic community knows too well the history of the Ife-Modakeke conflict as many authors have written extensively of the conflict in books and journal articles.²¹⁵ What is less well known is that for each of the violent episodes of the Ife and the Modakeke, in the

²¹³This will be discussed in details in chapter five.

²¹⁴The thesis makes use of interview responses to analyse this concept

²¹⁵For a list of some scholars that have written on the Ife-Modakeke conflict, see the literature review section of this chapter

course of their conflict, the quest for separation either physical, political, economic or religious has been the trigger to the violence. Also, attempts at resolution has been geared towards separation but never pursued to completion.²¹⁶ This thesis makes this the subject of analysis as an original contribution to knowledge.

1.8 Structure of the Study

This thesis is divided into eight chapters. Chapter 1 serves to introduce the problems that necessitated this study. The theoretical framework and the literature review are presented as the foundation for advising the government to separate the Ife and the Modakeke to resolve their conflict. The research questions and the scope of the thesis are provided. An analysis of the relevant literature review and the originality of the study to prove the contribution of this study to knowledge in the field of conflict resolution in Nigeria is also presented in chapter one.

Chapter 2 provides an analysis of the steps that were taken to address each of the research questions of this study as well as the procedure used in collecting and analysing the data. It is relevant to the overall thesis because it ensures originality and rigor that is a core facet of a PhD by research.²¹⁷

Chapter 3 provides an analysis of the anthropology of dispute resolution in the Ife-Modakeke through a consideration of their pre-colonial social, economic and political structure to determine the feasibility of physically separating the sub-groups to resolve their conflict. This is an appropriate starting point for answering the first research sub- question considering that it recommends to the modern State a consideration of economic and political separation to resolve the Ife-Modakeke conflict. The thesis identifies and justifies, in this chapter, the need for separating the groups arising from the relative success of pre-colonial attempt to end the conflict.

Chapter 4 examines the social, economic and political structure of the colonial Ife-Modakeke, their conflict and conflict resolution and the effect on the resolution of the Ife-Modakeke conflict by separation.

²¹⁶The subsequent chapters of this thesis attempt to prove this by reference to all the violent episodes of conflict between the Ife and the Modakeke as it considers major aspect of their conflict history.

²¹⁷S.C Dodd., 'A Ph.D. Defined in three Tenses' *The Journal of Educational Sociology* vol. 30. no. 9., 1957, p. 423-427 [423]

Chapter 5 discusses the group's conflict and conflict resolution in the post-colonial Nigeria, the social, economic and political structure of the modern State of Nigeria and its effect on the Ife-Modakeke conflict. The chapter analyses the power of the Federal State to separate groups by means of Local Government area and how the modern State can separate cultural identities from political identities by eliminating the traditional distinction between indigenes and non-indigenes and aligning land law with the reality of the ownership and possession of land by groups to end the conflict.

Chapter 6 analyses the possibility of resolution by economic and political separation of the groups through the creation of a new Local Government area for the Modakeke. The chapter determines the necessity, feasibility and power of the Osun state government in creating Local Government for the Modakeke. It deals with the organisation of Local Government and the re-organization in Nigeria and how Local Government creation can be harnessed to resolve the Ife-Modakeke conflict. Chapter six also deals with the attribution to the Nigerian States of any internationally wrongful act brought about by the omission of the Osun state to create Local Government for the Modakeke to bring an end to the Ife-Modakeke conflict and prevent further human right breaches of both groups and mass suffering to the people.

Chapter 7 deals with the obligation of the Nigerian government as part of the international community to protect its citizens from effects of violent conflicts and grant internal self-determination to the Modakeke by means of a Local Government area dominated by the Modakeke to prevent intervention from the African Union. The chapter also explores the benefit to the Nigerian State ending the Ife-Modakeke conflict.

Chapter 8 summarises the major findings and recommendations of the study and concludes with directions for future research such as how Nigeria can strengthen the Constitution and laws to enable equal access to devolution of power through Local Government creation in Nigeria. And the recommendation for setting up a local committee that will look into the administrative nature of upgrading the Area Office in the Modakeke into a full Local Government area that will serve to separate the groups politically and end the conflict.

In keeping with the structure of the thesis outlined above, the next chapter examines the methodology adopted in carrying out this research.

2. CHAPTER TWO: RESEARCH METHODOLOGY

2.1 Introduction

In this chapter, the procedure used in collecting and analysing data is described within the context of the five research sub-questions of the thesis. The overall purpose of the chapter is to address the methodology of this research.

The methodology section of this research is relevant to the overall thesis for two main reasons: one, it reinforces the need for care and caution in drawing conclusions in the research because according to the scholarly work of Eplattienier, "...methods should remind us that we often work with limited palette of information."¹ Therefore, caution need to be exercised in drawing general conclusions. Two, the method section ensures originality, which is generally recognised as a core facet of a PhD research. According to Dodd a sociologist and educator, skills in methodology test a researcher's ability to add knowledge that is verifiable to current studies.² Thus, to be able to enlarge knowledge through an original contribution, a clear methodology is undertaken in this chapter. For a method to be reliable, valid and verifiable, Rudner³ argues that it must be a method that is not likely to result in misleading readers to continue to believe false statements by deliberately omitting things from the research. It should be noted however, that false sentences do not include omissions deliberately done because they do not relate to the research. It is only where evidence relates to the research and it was deliberately omitted by a researcher that it can be said to be invalid or non-dependable.⁴ As will be shown in the subsequent sections of this chapter, this researcher ensured that the methods employed and the style of reporting evidence gathered in furtherance of this research, did not result in a deliberate omission of key evidence.

In order to describe the methodology in this chapter, the chapter is divided into four sections. Section one provides the primary method and the justification for using it. Section two addresses the method of collecting and analysing documents. Section three deals with the method of collecting and analysing archival materials from the two archives, while section

¹B.E Eplattienier., 'An Argument for Archival Research Method: thinking Beyond Methodology' *College English* (National Council of Teachers) vol. 72. no. 1., 2009.) p. 67-79 [75]

²S.C Dodd., 'A Ph.D. Defined in Three Tenses' *The Journal of Educational Sociology*, vol. 30. no. 9., 1957 p. 423-427[423]

³R. Rudner., *Philosophy of Social Science* (Englewood Cliffs Prentice-Hall, 1966) p. 73-83

⁴M. Martin., 'The Objectivity of a Methodology' *Philosophy of Science* vol. 40. no. 3., 1973, p. 447-450

four described the method for the fieldwork conducted among the Ife and the Modakeke in 2014. The second, third and fourth sections will be characterised by sub-sections dealing with the research question it addressed, the particular method and justification for the method chosen, how the data was collected, and how the data was analysed.

2.2 Section One: The Method

This section addresses the primary research method used in this thesis and the justification for choosing the method. The choice of research methodology in this study was informed by two major reasons: (1) “the nature of the topic of research” and (2) the aim of the research.⁵ The research is a socio-legal research aimed at providing recommendations to the government of Nigeria on resolving the Ife-Modakeke conflict and possibly providing a basis for resolving similar conflicts. Therefore, the methodology for this study was generated by a careful consideration of the research questions to carry out the aim of the study.

In keeping with the broader aim of making recommendations to the government for resolving the Ife-Modakeke conflict and providing a basis for resolving similar conflicts, the predominant research method applied in this study is the case study research method. Essentially, the case study method involves document analysis, archival materials and interviews conducted among the Ife and the Modakeke groups in June/July 2014. The document analysis covers two source materials. These are primary sources comprising of Nigeria’s Constitutions (previous and current), legislation dealing with land use, local government creation, and the African Union as well as the archival materials dealing with the anthropology of the Ife-Modakeke and their dispute resolution.

The secondary sources comprise of scholarly sources such as books/monographs, journal articles, and news reports. The archival materials were collected from two archives: The National Archive Ibadan, Nigeria and the National Archives Kew Gardens, London United Kingdom. In addition to document analysis and the archival material, some interviews among the Ife and the Modakeke groups in June/July 2014 were necessary to fill the gap. Considering that latest literature on resolving the Ife-Modakeke conflict in Nigeria were published as far back as 2010 confrontations⁶ and thus creating a gap from then to the time of commencement

⁵C. Chatterjee., *Methods of Research in Law* (Old Bailey Press, 1997) p. 8

⁶R.A Asiyabola., ‘Ethnic Conflicts in Nigeria: A Case of Ife-Modakeke in Historical Perspective’ *Journal of Humanities, Social Sciences and Creative Arts* vol. 5. no. 1, 2010, p. 61-78; B.A Oyeniya., ‘Greed- Grievance Debate and the Ife-Modakeke Conflict’ *Social History* (Routledge Taylor and Francis Group) vol. 35. no 3. 2010 p. 308-329 [320]

of this research in 2012. A copy of the transcript of the interview is lodged with the University of Westminster, London but the coding from it is attached as an Appendix of this thesis.

This study used triangulation of methods to provide a “confluence of evidence that breeds credibility.”⁷ In addition to credibility, Mathison emphasised that triangulation in qualitative study helps to control bias and establish valid propositions.⁸ While it is arguably not common or considered appropriate to talk about correctness and validity in qualitative research such as this, Lincoln and Guba argues that the equivalent of correctness and validity in quantitative research is dependability in qualitative research.⁹ In keeping with Lincoln and Guba’s arguments, this thesis makes use of the above three methods of gathering information for the thesis to be highly dependable and suitable for repeated reviews.

A generally recognised hurdle in combining methods as undertaken by this researcher is often the limited knowledge of the researcher and the possibility of combining some methods with others. In dealing with the first hurdle, the researcher acquired a solid background of methodology and the use of methods in research through a year’s course in research methods during her master of laws degree. Also, the researcher had the step by step guidance of one of her research supervisors who specialises in research methods and comparative study.¹⁰ Rather than relying on just published works, the researcher chose to combine methods. The justification for using more than one method is in keeping with the observations of Atkinson and Coffey that the use of documents alone is not a good research practice as they are not firm evidence of what they report.¹¹ The convictions of several scholars that the methods chosen in this research can be combined effectively, helped to allay the fears of the researcher. For example, Hutchinson noted the feasibility of combining case study with other methods when he wrote that: “A modified case study approach is very possible within a legal research project. It can be combined with a doctrinal study and allow typical examples to be explored....”¹²

Here, Hutchinson argues that case study research and doctrinal research can be combined within a legal research project. Also Denzin who argued that different methods can be

⁷E.W Eisner., *The Enlightened Eye: Qualitative Inquiry and the Enhancement of Educations Practice* (Prentice Hall, 1991) p. 110

⁸S. Mathison., ‘Why Triangulate? Educational Researcher’ vol. 17. no. 2, 1988, p. 13-17[13]

⁹Y.S Lincoln & E.G Guba., *Naturalistic Inquiry* (Beverly Hills CA: Sage, 1985) p. 300

¹⁰Professor Lisa Webley provided a thorough guidance to the researcher on her use of methods in this research.

¹¹P.A Atkinson & A. Coffey., ‘Analysing Documentary Realities’ in D. Silverman (Ed) *Qualitative Research: Theory, Method and Practice* (London: Sage, 1997) p. 45-62

¹²T. Hutchinson., *Researching and Writing in Law* (2nd edition. Law Books/Thomas Reuters, 2006) p. 104

combined “in the study of the same phenomenon.”¹³ Further justification for using more than one methods is keeping in line with the observations of Atkinson and Coffey that the use of documents alone is not a good research practice as they are not firm evidence of what they report.¹⁴ In keeping with the above observations, this thesis combines all three methods that come under the case study method to answer the research question and sub-questions.

The case study method was chosen after a consideration of a full range of methods available for the research such as purely doctrinal research and legal history. This is in keeping with suggestions of scholars in the selection of appropriate methodology such as Yin¹⁵ and Gerring¹⁶ who emphasised that there are a number of ways to undertake socio-legal research and the case study method is just one of them. A single case study is selected for this study namely the Ife-Modakeke conflict because the resolution of the Ife-Modakeke conflict is the main focus of this study. Also, a study of the groups provides insight into their conflict and attempts at resolution over time with particular attention being paid to examining separation as a means of conflict resolution. A single case study has allowed the researcher to robustly test the idea of financially and politically separating groups in conflict over internal self-determination, citizen’s land rights and identity.

The Ife and the Modakeke groups were chosen deliberately to limit the conclusions derived from this study to mainly apply to resolving the Ife-Modakeke conflict in Nigeria. This is consistent with the case study method which is characterised by “investigating a contemporary phenomenon within its real-life context...”¹⁷ The Ife-Modakeke conflict is also selected as it provides a longitudinal opportunity to examine separation as a conflict resolution strategy over a century covering three separate periods of time namely the pre-colonial, the colonial and the post-colonial eras of the Ife and the Modakeke. The researcher is aware of the fact that selection of a case study is prone to bias led by dependent rather than independent variables. This is made worse when the researcher does not have a firm grasp of the causes (independent variables) that gave rise to the research interest. A solid grasp on the literature can help to alleviate such bias. The researcher considered a range of possible case studies prior to the final selection such as the Aguleri-Umuleri conflict for land and the Niger Delta struggle for financial autonomy. The first two years of the research was used to pursue both

¹³N.K Denzin., *The Research act: A Theoretical Introduction to Sociological Methods* (New York: Aldine, 1970) p. 291

¹⁴P.A Atkinson & A. Coffey., (1997) *Ibid.* p. 45-62[47]

¹⁵R.K Yin., *Case Study Research Design and Methods* (5th edition, Sage Publications, 2014) Chapter 1.

¹⁶J. Gerring., *Case Study Research: Principles and Practice* (Cambridge University Press, 2007)

¹⁷R.K Yin., *Case Study Research: Design and Methods* (2nd edition, Thousand Oaks, CA: Sage, 1994) p. 13

the case of the Aguleri and Umuleri conflict and the Ife-Modakeke conflict for a comparison of the two situations however, due to time constraint the Aguleri-Umuleri conflict was dropped. Therefore, the researcher is not ignorant of other possible case studies. But the Ife-Modakeke case study is better suited for testing separation as it directly relates to political identity and not just struggle for financial autonomy.

The study discarded the sole use of legal history or purely document analysis as a method because the thesis does not deal entirely with the legal history of the Ife and the Modakeke conflict although it forms a large part of the analysis. Since the study is not meant as a means to view the whole world but the resolution of the Ife-Modakeke conflict, the case study method was more appropriate.

Yin gave specific conditions on which a case study method should be applied. He noted that:

*“a case study will be preferred method...when (1) the main research questions are “how” or “why” questions; (2) a researcher has little or no control over behavioural events; and (3) the focus of study is a contemporary phenomenon”*¹⁸

All three conditions were met by this study. To answer a “how” or “why” question, a wide range of data sources are required and only the case study method allows for such wide range. In addition, the Ife-Modakeke conflict introduce the study of universal principles such as autonomy, self-determination and the responsibility to protect. Such universal principles are best approached by means of a real-life situation such as in the Ife-Modakeke conflict.

The proceeding sessions deals with the major components of the case study method namely; the document analysis, archival materials and the interviews starting with the document analysis.

2.2.1 Summary

In summary, case study method was adopted as the primary method of research. The case study was used to explore separation as a means of resolving the Ife-Modakeke conflict. Thus, the case study groups were restricted to the Ife and the Modakeke even though the problem of group conflicts in Nigeria is not unique to the Ife-Modakeke. However, in dealing with internal self-determination for political separation, the Ife-Modakeke case is unique because

¹⁸R.K Yin., (2014) Ibid. p. xxxi, 16-17

it is the longest group conflict in Nigeria and as described in the background to the study in chapter one, their historical experiences place them in a unique circumstance that requires separation.

2.3 Section Two: Document Analysis

In undertaking the document analysis, the research method employed a combination of the doctrinal legal analysis of some laws involving the conflict, such as the Nigeria Constitutions (past and the present 1999 constitution) and the Land Use Act 1978. As well as, the analysis drawing on scholarly sources in published books and articles. The justification of combining both primary and secondary documents in this thesis is that the research sub-question one and two, bears on the analysis of the history of both groups which required analysing arly written works on the groups and their conflict. While sub-questions three to five have a bearing on modern State structure and the International law which required an examination of primary legal documents.

2.3.1 Research Questions Addressed by Document Analysis

The document analysis contributed in answering all five research sub-questions. However, the type of documents used for each question varied according to the requirements of the question. The first research sub-question only analysed secondary documents such as books and articles on the Ife-Modakeke social, economic and political structures and their conflict resolution. This was substantiated with interviews showing the contemporary perceptions of the conflict by the Ife and the Modakeke groups in a continuum with the history of conflict through the pre-colonial period. In dealing with the first research sub-question on the Ife-Modakeke pre-colonial structures in relation to the idea of separation, the historical records of already, published works on the group's conflict and dispute resolution was essential. This was mainly because written history of pre-colonial Yoruba was limited since Africans were known for oral and not written traditions.¹⁹ Therefore, the early works on the Yoruba and the Ife-Modakeke are priceless regardless of some bias and minor inaccuracies attributed to some of them. For example, Eades noted that the Oyo king list, presented by Samuel Johnson²⁰ in his history of the Yoruba, was inaccurate. Also, he noted that the history presented by Smith²¹

¹⁹J.A Atanda, J.A., *An Introduction to Yoruba History* (Ibadan University Press, 1980) p. 1

²⁰S. Johnson., *The History of the Yoruba from the Earliest Times to the Beginning of the British Protectorate* (George Routledge & Sons Ltd Lagos, 1921)

²¹R. Smith., *Kingdoms of the Yoruba*. (London Methuen and Co Ltd, 1969) p. 34

and Law ²²cast doubts on the accuracy of the history of the Yoruba presented before the 19th century.²³

Furthermore, published materials on the Ife and the Modakeke pre-colonial history were used to assist in identifying gaps in published work that is filled by oral narratives of the people. They also assisted to establish a baseline against which to measure the results of the interviews conducted while remaining open to new data/information from the interview conducted among the people.

During the colonial times, records were kept by the colonial administration in Nigeria. These documents included primary legal documents in form of Treaties, Constitutions and Maps. The analysis derived from the legal documents in colonial and modern times assisted in answering research sub-questions two to five.

2.3.2 How the Documents were Selected

Academic materials from libraries were selected as data sources for answering the first research sub-question. Sources such as textbooks, academic journals and internet database that held discussions on the key words such as ‘anthropology of dispute resolution’, ‘urban societies’ ‘dispute resolution’, ‘Yoruba dispute resolution’, and ‘the Ife-Modakeke dispute resolution’ were consulted and selected based on the most significant and relevant to the arguments in either proving or disproving arguments in the thesis. The library of the Anthropology Society of Britain located in the British museum, the British library collections, the Institute of Advanced Legal Studies’ library in London and the School of Oriental and African Studies (SOAS) library in London, provided rich collections of published books and articles and Nigerian case law reports. Some Treaty laws were gathered from the United Nations Treaty collections while the Newspaper articles were gathered from online sources. Newspapers were accessible via online sources such as the Guardian website and through google search. For the internet sources, the Boolean Operators such as AND, OR and NOT are used to search for articles and materials. In addition, positional operators such as w/# and

²²R. Law., *The Oyo Empire C.1600-1836. A West African Imperialism in the Era of the Atlantic Slave Trade* (Oxford Clarendon, 1977) p. 33-49

²³J.S Eades., *The Yoruba Today* (Cambridge University Press, 1980) p. 18

Pre/# were used to preface main terms in search engines. Westlaw, LexisNexis, Jstor, Google scholar, and Ethos were all valuable sources of online information.

Due to early scholarly warning to this researcher that incomplete selection of documents can lead to bias on the part of the researcher,²⁴ data was divided into categories which made their collection orderly, detailed and much easier. The categories included formal documents such as constitutions, treaty laws, case laws, government white paper, informal communications such as memos, letters, and notes. Public records included newspapers, census figures, maps; personal papers such as letters, and diaries. Publications included academic literatures. Secondary data included multimedia such as photos, videos, websites, and online archives. The categories determined where to look for the data.

2.3.3 How the Documents were Analysed

The thematic analysis was adopted for all non-legal documents. Intensive reading of academic materials of different scholars on conflicts and dispute resolution and the social, economic and political structure of the Ife and the Modakeke was carried out and notes were taken. These texts were compared to see if they constructed the same or different understandings from the arguments of the thesis. Similarities and differences were identified and noted. The arguments were then used to verify the thesis arguments or to justify a rejection of the argument. Renowned authors were sometimes quoted verbatim to give weight and corroborations to certain descriptions. These were used as direct positive contributions to the thesis or criticised for analytical purposes.

The fourth and fifth research sub-questions dealt mainly with the post-colonial economic and political structure of the Nigerian State and State attempts at resolving the Ife-Modakeke conflict. The research sub-questions analyse aspects of the Constitution and legal doctrines that sustains the conflict and makes recommendations on possible method of ending the conflict by separation. This aspect of the thesis involved detailed analysis of legal doctrines such as autonomy and internal self-determination, as well as, indigene/settler relationship of groups. Therefore, the legal “doctrinal methodology” is applied. This methodology is applied in analysing local and regional legislations such as provisions of the Nigerian Constitution and the African Charter of Human and Peoples Rights as it relates to internal self-determination for groups. Such as Local Government creation in Nigeria, the indigene/settler

²⁴R.K Yin., *Case Study Research: Design and Methods* (2nd edition Thousand Oaks, CA: Sage, 1994) p. 80

relationship in the Constitution and the role of the African Union in intervening in Nigeria's conflict situation under the African Charter. The doctrinal methodology consists of four steps symbolised by the acronym IRAC²⁵ wherein "I" stands for Issues, "R" stands for Rule of law, "A" stands for Analysis and "C" stands for Conclusion.

After identifying the issues in the legal document as it relates to the particular research question in the thesis, the rule of law is then applied to the issues raised. The relevant Nigerian legislation most especially the Nigerian Constitution are loosely equivalent to the Rule (s) of Law. The thesis then sets out the relevant analysis and attempts to reach a conclusion (s). In order to apply the "doctrinal methodology" in research questions four and five, a two-step approach is applied as follows:

First, the triggers to the Ife-Modakeke conflict identified in the background to the study in chapter one is analysed in relation to their history and State attempts at addressing the conflict using examples from relevant Nigeria's legislation. These included: the 1999 Constitution, the Land Use Act and Local reform law with a view to determine whether or not separation was an option in past violent conflict. In the event that such triggers showed separation as an option, the next step is to determine the gaps in the government management of the situation with a view to recommend steps to apply separation to resolve the conflict considering that the government had always been involved in conflict resolution of the Ife-Modakeke conflict.²⁶ The second step of analysis is to determine the advantages of separation or the disadvantages of non-separation in relation to Nigeria's responsibility towards groups in conflict as a member of the international community and the African Union. This analysis is aimed at providing the necessary pressure on Nigeria to resolve the Ife-Modakeke conflict. A conclusion is then established concerning the way forward for the Ife-Modakeke.

2.3.4 Summary

This section has shown that when dealing with the historical structure of peoples dating to pre-colonial era, early published materials on the history of a people is priceless especially of people known for oral transmission and not on written records. However, published works sometimes have been discredited because they carry some untruths and bias from the early writers. Thus, the preserved archival materials often tend to iron out these discrepancies. In

²⁵T. Hutchinson., *Researching and Writing in Law* (2nd edition, Law Books/Thomas Reuters, 2006) p. 33-34

²⁶T.A Imobighe., *Civil Society and Ethnic Conflict Management in Nigeria* (Spectrum Books Limited Ibadan, 2003)

line with this, the following sections described the archival research undertaken by the researcher to answer the research questions.

2.4 Section Three: Archival Materials

The relevance of archival method in this thesis is that it helps to provide historical context and data for this study. To reiterate, the objective of this thesis is to add knowledge in the field of group conflict resolution in Nigeria by researching separation as a means of resolving the Ife-Modakeke conflict. According to the Meriam Webster online dictionary an archive is “a place in which public records or historical materials (such as documents) are preserved.”²⁷ This research covers histories of the Ife and the Modakeke group in relation to their more than a century long conflicts and dispute resolution. Therefore, to gather information on the people’s history, the archival method is used. In addition, Gaillet made it clear that “[a]rchives are now viewed as primary sources for creating knowledge rather than storehouses for finding what is already known.”²⁸ It follows that, in order to add knowledge to the resolution of the Ife-Modakeke, the use of archival method was essential.

Most of the archival materials used in this thesis were found in the National Archives (London and Ibadan Nigeria), the Royal Institute of Anthropology library (formerly museum of Mankind) and the British Library. ²⁹A total of five weeks of long days was spent in the archives in Nigeria in 2013, 2014, and many hours in the National Archive in London. More than three hundred works on the history, conflicts and conflict resolution of the two groups were read with the aim of ensuring unification and establishing the generally agreed differences. Materials retrieved from the National Archive in London included photographs of native soldiers in the 1900, native fortifications, Nigerian regiments in the world wars, native government land 1929, transfer of tribal areas, conference of Yoruba native chiefs, and map of ancient Ife 1888. Materials recovered from the National Archive Ibadan included correspondence respecting the war between the native tribes in the interior, papers and correspondence between the colonial government and the native authorities 1851-1872, correspondence between Rowe and Kimberley 1882, 1884, Alaafin letter inviting colonial government for help in ending the Yoruba wars, Christian missionary intelligence 1852-1855,

²⁷Meriam Webster Online Dictionary. Online: <https://www.merriam-webster.com/dictionary/archive>

²⁸L.L Gaillet, ‘Forming Archival Research Methodologies’ *College Composition and Communication* vol. 64. no. 1, 2012, p. 35-58 [39]

²⁹ Consent for the use of maps from the National archive London was obtained via email. Email can be found in appendix 3

intelligence report on the district of Ondo 1934, notes and letters of Rev. J.B. Wood 1881-1886. Materials recovered from the British Library: treaty for the cession of Ife to H.M the Queen of England, Treaty of peace by all Yoruba tribes 1886, letters from Nigeria by David Wynford Carnegie 1899-1900, and Memorials of Anna Hinderer C.M.S Missionary in West Africa gathered from her letters and journals.

2.4.1 The Research Questions Addressed

The archival materials assisted in answering the second research sub-question “to what extent does the colonial social, economic and political structure of the Ife-Modakeke demonstrate separation as a means of resolving their conflict?” The justification for the use of archival materials in answering the second question in this thesis is that it provided primary sources of information and acted as evidence of the colonial structure of the Ife and the Modakeke groups. According to Eplattenier, such evidence is what makes readers decide whether they can trust the history presented in the thesis.³⁰ The archival evidence backs up themes identified from published books on the Ife-Modakeke and their conflict such as their dispute resolution, matters of the Yoruba norms, and the colonial Treaties dealing with the groups. In addition, the use of archival research to gather materials was supported and reiterated by several authorities in the study of the Ife and Modakeke groups and their conflict. For example, Johnson,³¹ Evans-Pritchard,³² Bohannan,³³ Willett,³⁴ Bascom,³⁵ Akinjogbin,³⁶ Falola & Oguntomisin,³⁷ and Imogbihe³⁸ all made use of archival materials for their research. For the Nigerian writers that published works on the Yoruba of Nigeria, their main sources of information were from the different National archives in Lagos, Ibadan and Enugu Nigeria.

³⁰B.E Eplattenier., ‘An Argument for Archival Methods: Thinking Beyond Methodology’ *College English*, vol. 72. no. 1, 2009, p. 67-79[74]

³¹S. Johnson., (1921) Ibid.

³²E. Evans-Pritchard., *The Nuer: A Description of the Modes of Livelihood and Political Institutions of a Nilotic People* (Oxford University Press, 1940)

³³P.J Bohannan., *Justice and Judgement Among the Tiv* (Oxford University Press, 1957)

³⁴F. Willett., ‘Recent Excavations at Old Oyo and Ife, Nigeria’ *Royal Anthropological Institute of Great Britain and Ireland* vol. 59. June 1959, p. 99-100[99] Online: <http://www.jstor.org/stable/2797128>. Accessed 06/05/13

³⁵W. Bascom., *The Yoruba of South-Western Nigeria* (University of California, Berkeley, 1969)

³⁶A. Akinjogbin., *War and Peace in Yorubaland 1793-1893* (Heinemann Educational Books, Nigeria, 1998) p. 349

³⁷T. Falola, & G.O Oguntomisin., *Yoruba Warlords of the 19th Century* (African World Press, 2001)

³⁸T.A Imogbihe., (2003) Ibid

2.4.2 How the Archival Data was Collected

The National Archive in London holds records of former British colonies including Nigeria. These consist of letters between the governors of territories and the British governments. Journals of British missionaries and colonial visitors all shed light on the 1800 in Niger area, which became Nigeria. Electronic search and order for materials is used to access the materials in the London National Archive. Only three materials can be ordered at a time. Waiting times are from 40 minutes of ordering and that posed much challenge. The electronic search has the materials arranged under heading such as 'War and Colonial department', 'Colonial office 1854-1966', 'Common Wealth relations office 1947-1966', etc. Correspondences are recorded in Registers. Letters are numbered and bound into volumes for each country or department in numeric order not by subject. Records of colonial government are not held.

The biggest challenge in retrieving materials from the archives was in Nigeria. The materials at the National Archives were difficult to extract once the money had been paid³⁹ to gain access into the archives. A fee of N10 ((0.021 Pound Sterling) (for each)) was requested for a form to request documents. N200 (0.42 Pound Sterling) was charged for each photocopied page to be used for the research. This was for ethical requirements of the Nigerian National Archive. It is called the prize of photocopy for legal use. Most of the time, the photocopier was not working and when working was very faint. The researcher had to handwrite quotations and passages of materials that appeared relevant. The Nigerian National Archive contains papers of government, native and local authorities and of semi-public bodies. The Colonial Secretary's Office (CSO) finding-aids-cupboard contains a special list of documents held on a particular subject area and this proved useful, as there were no electronic finding aids. Only six items at a time can be ordered. Ordering starts at 10am and ends 2pm. When handed in, there is usually a long wait sometimes up to four hours for the documents to arrive. This is in contrast to the 40minute wait in the National Archive in London. The greatest challenge is the high number of missing documents. Out of fifty documents ordered over two weeks, only twelve was received. The others were either missing or unaccounted for because they have been filed wrongly. In fact, I was told by a fellow user to treat the documents as gold because of the likelihood of it being misplaced at a future date. Thus, the majority of the

³⁹N3000 was paid to gain one-month access to the Ibadan Archive. And a few of £200 per page was charged for photocopying for legal use or for stamped certification. As a result, much of the works consulted where read there and notes made while others where snapped by camera and analysed later paying a flat fee of N5000 everyday of photographing.

archival documents used, were hand written paragraphs from the available materials which took so much time.

The materials were marked out in year order and file numbers. Most of the colonial materials were torn and in very fragile papers, so one was not allowed to take them for photocopying. Sometimes citations were not clear and staff at the archive will come to the rescue to say what material was delivered. Camera scanners were not allowed into the archives. Some of the pages of the materials were missing. Colonial intelligence files, court documents, memorandums and minutes of meetings were consulted for information of past resolution attempts of the conflict and only a few were available.

Examples of archival documents collected and the data analysed are given in Table 1 below

Documents selected	Data Analysed
Natives Unrest in Nigeria 1929	Fight for traditional conflict resolution?
Native Authority Policy 1934	Loss of tribal autonomy?
Oyo profile 3	District officer memorandum to Secretary of State Southern Province. Ooni (king) decision on Modakeke autonomy for separate Imam
First Conference of Yoruba Chiefs 1937	Tribal autonomy?
Transfer of tribal areas	Loss of tribal autonomy?
Photograph of Ife Court House	Presence of conflict resolution?
Appointment and Deposition of Chiefs	Loss of tribal autonomy?
Correspondence war between the native tribes in the interior C.5144	Tribal conflict 17 th century/ old conflict new solutions?
Correspondence Rowe to Kimberley, Latosisa to Barrow, Barrow to Young, Alaafin to Wood, Johnson to Griffith, Evans to Granville, Evans to Stanhope	Tribal recognition of early intervention?
Report of the judicial commission of inquiry into the communal disturbances in	Role of State in conflict resolution

Oranmiyan central Local Government area of Oyo state. Ibadan government printer	
Ife Division File	Modakeke separate ruler from the Ife Modakeke refusal to pay the Ishakole

Table 1 A Small Sample of Documents and Data Analysed

2.4.3 How the Archival Data was Analysed

Informed consent from the archives was sort and obtained through emails by the researcher before any of the materials derived from the archives were used in the thesis.⁴⁰ According to Mckee and Porter, “[t]he need to obtain informed consent is a given for qualitative researchers.”⁴¹ They further argued, “papers are also people.”⁴²As a result, this researcher considered ethnical matters involving the use of archives for research such as disclosing private matters that are meant to be private and copyright issues. Data from the archives were arranged under the themes that they belonged to. The themes were already identified from the literature review. However, new information found in the archives was recorded separately under the ‘emerging’ theme. The data under each theme is described in the thesis and used to back-up arguments of the thesis or negate such arguments.

2.4.4 Summary

The third section has shown the value of using archival materials and analysis as additional evidence for separating the Ife from the Modakeke for a resolution of their conflict. The archival materials assisted in answering the second research-sub question on the colonial social, economic and political structure of the Ife-Modakeke. However, in the triangulation technique, the thesis uses more than archival materials in the study. As part of the triangulation method, oral interviews were used to substantiate evidence from documents and archives. The detailed process for the interviews is presented in the section below.

⁴⁰Email consenting to the use of archival materials from the National Archive London can be found in Appendix 3. Extra money was paid separately for copying archival materials for use in the National Archives Nigeria.

⁴¹H.A McKee & J.E Porter., ‘The Ethnics of Archival Research’ *College Composition and communication* (Research methodologies National Council of Teachers of English) vol. 64. no. 1., 2012. p. 59-81[66]

⁴²H.A McKee & J.E Porter., (2012) Ibid. p. 60.

2.5 Section four: Interviews Conducted Among the Ife and the Modakeke in June/July 2014

This section provides details of the fieldwork carried out by the researcher in Nigeria, why and how the fieldwork was carried out, as well as, the impact of the fieldwork on the doctrinal study. The fieldwork provided the researcher with additional evidence for proposing advice to the government on how to assist the Ife-Modakeke in resolving their conflict by separating the groups financially and politically thereby restoring them to their politically autonomous state in pre-colonial Nigeria. The researcher was in a privileged position to carry out research in Nigeria, because she had direct access to the people, being a Nigerian citizen herself. Since the University of Westminster was supporting the research effort, the researcher felt that it would have been almost wrong not to embed herself into the field especially as her Ph.D. was about giving back autonomy to the one group. As a result, this section first discusses the research questions the method addressed, the process leading up to the fieldwork between the Ife and the Modakeke in Nigeria dealing mainly with the initial plan for the fieldwork. It then goes on to discuss the design stage of the fieldwork and the actual interviews. The impact of the fieldwork on the doctrinal study is also delineated. The analysis of the fieldwork data is presented as contemporary perceptions of the conflict in a continuum with the history of the conflict throughout the pre-colonial, colonial and post-colonial periods as set out in chapter's three and four of the theses.

2.5.1 The Research Questions Addressed

The interviews assisted the researcher in answering primarily the first and second research sub-questions that dealt with the pre-colonial and colonial history of the people's conflict and dispute resolution. Some aspects of the interview related to the perspectives of the people on modern State resolution methods, which are featured in the third research sub-question. Because the oral interviews were used to find out the perceptions of the Ife and the Modakeke people on their conflict and preferred dispute resolution and explore the similarities and differences of the people as a means of exploring separation for resolving their long conflict, it was suited for answering the first three research sub-questions.

2.5.2 Process Leading up to the Fieldwork

The fieldwork that was carried out was interviews between the Ife and the Modakeke in June/July 2014. The interviews were carried out in both the Ife main town and the Modakeke main town. The researcher initially proposed to carry out some interviews in some farming villages of the Ife occupied by the Modakeke but was dissuaded by her contact from doing so as they were potential areas of sudden violent clashes.

The plan for the fieldwork was to conduct interviews among the Ife-Modakeke people to compliment the doctrinal study. The plan was to be guided by major themes identified in the doctrinal study but at the same being open to adopt new themes that might emerge during the interviews. The encyclopaedia of qualitative research encourages researchers to keep an open mind when doing fieldwork (especially when coding) to get more from the data collected.⁴³

Not all the themes identified prior to the interviews were included in thesis, because the bulk of the doctrinal work was readjusted to make for an intellectually defensible research long after the fieldwork was concluded. Only the relevant themes therefore were featured in the analysis of the fieldwork conducted and reflected in this thesis.

The initial themes identified from the doctrinal study (before the fieldwork was carried out) are provided in table 1 below:

No.	Themes/Concepts
1	Anthropology of group conflict and dispute resolution/ Anthropology of the Ife and the Modakeke conflict resolution
2	Social relationship between the Ife and the Modakeke
3	Political autonomy of the Ife and the Modakeke- pre-colonial era
4	Political autonomy of the Ife and the Modakeke- colonial era
5	Political autonomy of the Ife and the Modakeke- post-colonial era
6	Yoruba traditional dispute resolution
7	Modern State intervention in to end the conflict
8	Power of the International community to intervene to require modern States to grant internal self-determination to groups

Table 2 Themes

⁴³L.M Given., *Encyclopaedia of Qualitative Research Methods* (edited vol. 1& 2 Sage: A Reference Publication, 2008) p. 86

The themes in the table above formed the majority of the information looked for in the fieldwork because they related to the original goal of the research study to offer recommendations to the government of Nigeria in order to end the conflict of the Ife-Modakeke through separation. Other themes researched and added to a thesis that were not directly addressed by the interview, were the indigene/settler relationship and the political history of Nigerian State as it relates to group conflict resolution. In order to gather the information to substantiate or discredit the themes in the table, the interviews of the fieldwork followed the seven stages of interview promoted by Kvale,⁴⁴ namely; the schematizing stage, the designing stage, the interviewing stage, the transcribing stage, the analysing stage, verifying stage and reporting stage.⁴⁵ The flow chart for the fieldwork is represented below:

The flow chart is discussed below:

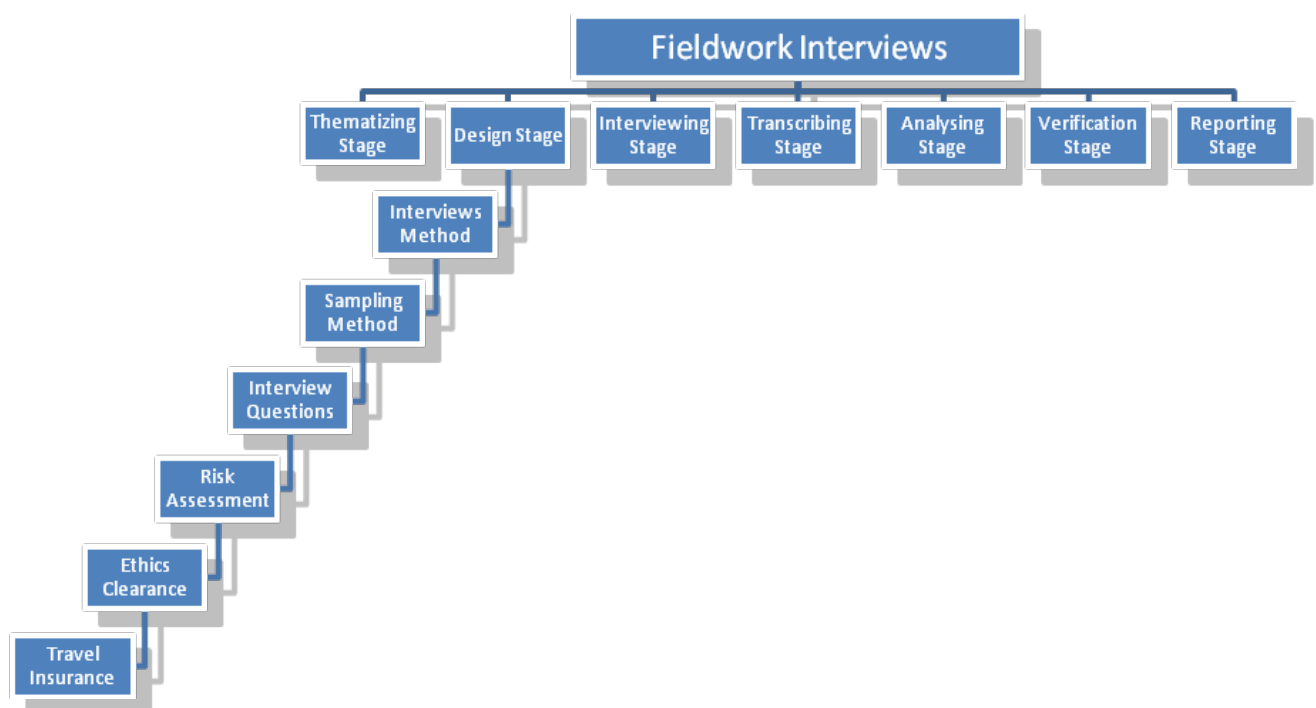


Figure 1 Stages and Sub-Stages of the Fieldwork Process

⁴⁴S. Kvale., *Interviews: An Introduction to Qualitative Research Interviewing* (Sage Publications, 1996)

⁴⁵S. Kvale., (1996) Ibid. p. 88

2.5.2.1 Stage 1: Thematising Stage

According to Kvale, in the thematising stage, the researcher determines the what, the why and the how of the interview by obtaining pre-knowledge of the subject matter to be investigated, clarifying the purpose of the study, acquiring knowledge of different techniques, and deciding which is the most appropriate for use in the research.⁴⁶ In this study, as the doctrinal study and the literature review progressed, it became increasingly important to trace the political history and the dispute resolution history of the Ife-Modakeke from their pre-colonial days (when tribal dispute resolution was the only means of settling conflicts), to the modern State influence of setting up committees and the use of the courts to determine whether the idea of separation had any foundation in past dispute resolution or a future in present day attempts at resolving the Ife-Modakeke conflict. As the pre-colonial, colonial and post-colonial history of the Ife-Modakeke unfolded, the need arose to find out the perspective of the people on their conflict history and traditional dispute resolution.

Admittedly, there are no known people that are still alive from the ancient Ife-Modakeke however, history in West Africa is generally noted to be transferred orally from generation to generation.⁴⁷ Therefore, the fieldwork planned to include elderly people that had the community history handed down to them orally and were able to remember more. The interviews were also used to include younger people who have opinions on the history handed down. Apart from authenticating their history of autonomy and dispute resolution, the fieldwork that was planned, aimed at uncovering the people's perception of government intervention in their conflict to determine whether separation by government will be agreeable to all parties involved in the conflict.

The fieldwork carried out in this research can be summarised by reference to four themes or factors of Ife-Modakeke society. First, people's perception of their relationship with the other group. Second, perceptions of both groups concerning their current political status within the modern State. Third, how the Ife and the Modakeke views the conflict and dispute prevention and resolution processes functioning in their society. Fourth, how the Ife-Modakeke perceive State intervention in their conflict and dispute resolution. The four themes are important considering that the thesis was geared toward cultural understanding of the two groups studied

⁴⁶S. Kvale., (1996) Op cit. p. 95

⁴⁷See Discussions of the History of Nigeria in T. Falola & A. Genova., *Historical Dictionary of Nigeria. Historical Dictionaries of Africa. No. 111* (The Scarecrow Press Inc. UK, 2009) p. Xxxiv

and how financial and political separation can be archived to resolve their conflict. Thus, speaking with the people to get their current perceptions regarding political autonomy and internal self-determination for the groups was essential. Although, data collection can take various forms,⁴⁸ it was more appropriate to get the people's views by going out to talk to them.⁴⁹ It is generally agreed that law does not operate in a vacuum but within the society.⁵⁰ The fieldwork was aimed to discover any discrepancy in doctrinal textual information and the actual practices of the Ife-Modakeke with regards to their conflict and dispute resolution.

Having decided on the advantages of the fieldwork, the next stage of the interviewing process was followed. This stage involved the designing of the interview as described below.

2.5.2.2 Stage 2: The Design Stage

Vaus stated the function of a research design in qualitative study in these words: "The function of a research design is to ensure that the evidence obtained enables us to answer the initial question as unambiguously as possible."⁵¹

To ensure that the data from the interviews provided answers to the research questions, this stage of the fieldwork involved determining the method of conducting the interview, planning how to recruit suitable⁵² participants for the interview, deciding on the sample size, drafting the interview questions, carrying out risk assessment of the possible participants in the interviews, obtaining ethics approval from the University of Westminster, and the procurement of travel insurance. Yin had stated that the case study design is more suitable for studying complex social phenomena in real life context.⁵³ This research made use of the case study design to collect data to answer the research questions. This was the most appropriate design as the research was focused on understanding the Ife-Modakeke conflict and dispute resolution as groups in a modern State system. Although the research questions included the pre-colonial and colonial history of the Ife-Modakeke political status, the longitudinal research design was not used as it did not involve collection of information from the

⁴⁸T. Webley., 'Qualitative Approaches to Empirical Legal Research' in P. Cane, & H. Kritzer., (Eds) *The Oxford Handbook of Empirical Legal Research*. Oxford: Oxford University Press, 2010) p. 926-951[928]

⁴⁹Speaking with the people face-face was more appropriate in this study. See reasons in interview methods in this chapter

⁵⁰J. Getman., 'Contributions of Empirical Data to Legal Research' *Journal of Legal Education* vol .35, 1985. p. 489

⁵¹D. De Vaux., *Research Design in Social Research* (London: Sage, 2001) p. 8

⁵²Suitable participants are those in positions to provide answers to questions that will assist in achieving the purpose of the interview.

⁵³R. Yin., *Case Study research: Design and Methods* (London: Sage, 2003) p. 2

participants over a period of time.⁵⁴ This was not the case with the history questions presented to the participants in this study, information on history were collected at the same time from the stories handed down orally to participants. The detailed description of the design process is provided below.

The Interview Method

In this study, the planned method for the interview was the use of face-to face semi-structured interviews. Admittedly, there are other methods of collecting data from participants made possible by advancing technology such as through emails and telephone interviews. Webley noted that “data can take a number of forms.”⁵⁵ Emails and telephone sources of data are even considered⁵⁶ better suited for dangerous or politically sensitive environments such as the case of the Ife and the Modakeke. They also tend to save the cost of travelling and maintain the anonymity of researchers.⁵⁷ However, Bryman noted an important benefit of choosing a face-to face interview to other methods, which is that termination of a face-to-face interviews are much easier than other methods as one tends to get enough cues from body language and tone of voice.⁵⁸ Termination at the right time arguably helps to maintain participant’s consent and avoids distressing the participants. Avoiding needless stress on the participants was very essential to the Ife and the Modakeke as the interviews bordered on sensitive subjects- “conflicts” and “disputes” which have undoubtedly caused pain and claimed the lives of many of loved ones from both groups. In the two last decades alone, there had been reportedly over 2000 deaths as a result of the Ife-Modakeke conflict.⁵⁹ Another reason for deciding to use the face-to face interviews was the consideration for the financial status of many of the proposed participants,⁶⁰ making it likely that many of the participants were unlikely and unwilling to have telephones or electronic devices for such a purpose due to the high cost of such endeavours. Although, Howard and Garland stated that globally in 2014, over a billion people

⁵⁴The detailed discussion of the different research design and the criteria for a choice of design can be found in D. De Vaus., (2001) Ibid

⁵⁵T. Webley., (2010) Ibid. p. 928

⁵⁶For a detailed discussion on the use of Emails and Telephone Interviews see R. Opdenakker., ‘Qualitative Social Research Advantages and Disadvantages of Four Interview Techniques in Qualitative Research’ *Forum* vol. 7. no. 4. Article 11 September, 2006. Online: <http://www.qualitative-research.net/index.php/tqs/articles/view/175/391>. Accessed 1.09.16

⁵⁷R. Bampton & C.J Cowton., ‘The E-Interview [27 Paragraphs]’ *Forum: Qualitative Sozialforschung/Forum: Qualitative Social Research. Online Journal* vol. 3 no.2 Article 9, May 2002, Paragraph 25. Online: <http://www.qualitative-research.net/fqs-texte/2-02/2-02bamptoncowton-E.htm>. Accessed 1.09.16

⁵⁸A. Bryman., *Social Research Methods* (Oxford University Press, 2001) p. 112

⁵⁹N. Ogbara., (2002) *Hope Betrayed? A Report on Impunity and State-Sponsored Violence in Nigeria* (World Organisation Against Torture (Omet) and Centre for Law Enforcement Education, 2002) p .43

⁶⁰See ‘Unicef Nigeria’ Online: http://www.unicef.org/wcaro/Countries_1320.html. Accessed. 01.09.16

accessed the internet,⁶¹ the 2006 United Nations Human Development Index noted that in 2006, 70.8% of the Nigerian Population was living on less than \$1 a day.⁶² The poverty situation was at a record high in 2012 when BBC News reported that more than 60% of Nigerians live on less than \$1 a day.⁶³ True to Bryman's words "people who do not own or who are not contactable by telephone obviously cannot be interviewed by telephone."⁶⁴ In addition, the lack of ready access to computers and email facilities to all Nigerians as a result of the almost non-existent electricity⁶⁵ makes it highly impractical to carry out interviews on the telephone or by email with the Ife-Modakeke.

Another type of interview that this researcher considered during the design stage was group interviews. The value of group interviews was highlighted by Blumer in these words:

*"A small number of individuals, brought together as a discussion or resource group, is more valuable many times over than any representative sample...such a group will do more to lift the veils covering the sphere of life than any other device..."*⁶⁶

In recognition of the value of group interviews, the researcher considered using group interviews to offer additional data but decided against it. Some University of Ife staff advised the researcher against group interviews because when groups are seen gathered in such a way, it might create suspicion that one community is beginning discussions on resuming the conflict among locals. An alternative would have been conducting the interviews at the university that is a safer environment for group interviews. However, it was not possible in the University of Ife, which was the safest environment, because of the time required to process permission from that University, as well as the fact that the University was on holiday at the time of the scheduled interviews rendering it difficult to get people to participate in the interviews.

Having chosen the face-to-face interview method, tape recording was the proposed choice of recording and storing of information from participants because tape recording ensures more

⁶¹M.O Howard & E.I Garland., 'Social Work Research: 2044' *Journal of the Society for Social Work Research* (The University of Chicago Press on Behalf of the Society for Social Work and Research) vol. 6. no. 2., 2015 p. 173-200 [176]

⁶² Ibid. fn. 60

⁶³BBC News: 'Nigerians Living in Poverty Rise to Nearly 61%. 13 February, 2012' Online: <http://www.bbc.co.uk/news/world-africa-17015873>.

⁶⁴A. Bryman., (2001) Ibid. p.112

⁶⁵The Vanguard News reported that only 25% of Nigerians had access to electricity in 2013. See Vanguard News: 'Nigeria's Electricity Situation a Nightmare-Federal Government' 6 June, 2013. Accessed 1.09.16

⁶⁶Blumer, H., (1969) *Symbolic Interactionism: Perspective and Method*. New Jersey: Prentice-Hall Inc. p. 41

accurate information than writing notes.⁶⁷ Importantly, according to Bryman, tape-recording interviews allows the public to scrutinize the interviews.⁶⁸ In addition, tape recording helps in avoiding respondents' answers being distorted and thereby introducing errors. The researcher's choice of tape recorded interviews was also predicated on the general findings that a large amount of data are lost in written interviews and that tape recorded interviews eliminate a large source of bias by removing the conscious and unconscious selection of what to write down on the part of the researcher.⁶⁹ However, the researcher also noted that there had been general findings to the effect that tape-recorded interviews increase the resistance to interviews and thus increasing the refusal rate.⁷⁰ As will be discussed later in the interview analysis, the use of a tape recorder was discontinued after a few days of unsuccessful use and replaced by the use of extensive notes, writing down respondents' words as exactly as possible to reduce the likelihood of errors being introduced into the work. Although, note taking proved to be advantageous for getting participants to take part in the whole interview, the researcher knew that it reduced her freedom of involvement in the interview situation due to the level of concentration required in note taking. As noted by Laslett and Rapoport, such extensive note taking makes the researcher miss non-verbal signs provided by the participants.⁷¹ The researcher does not rule-out the possibility that she missed some of the non-verbal answers given by the participants.

Sampling/Recruiting Participants

In this study, the relevant options in recruiting participants were considered because sampling involves recruiting participants.⁷² Onwuegbuzie and Leech stated that: "...sampling should be a consideration in all qualitative inquiries, regardless of purpose of research."⁷³ The random sampling technique which is ideal with generalizing about the population⁷⁴ was not

⁶⁷R. Opdenakker., 'Qualitative Social Research Advantages and Disadvantages of Four Interview Techniques in Qualitative Research' *Forum* vol. 7. no. 4. Articles 11 September, 2006 Online: <http://www.Qualitative-Research.Net/Index.Php/Tqs/Articles/View/175/391>. Accessed 1.09.16

⁶⁸A. Bryman., (2001) Op cit. p. 318

⁶⁹See for example Rubucher and Fritz Arguments in Q. Rubucher & C.E Fritz., 'Tape Records Interviews in Social Research' *American Sociological Review* vol. 2. no. 3, 1956, p. 359-364.

⁷⁰B. Laslett & R. Rapoport., 'Collaborative Interviewing and Interactive Research' *Journal of Marriage and Family* (Special Section: Macrosociology of the Family, National Council on Family Relations) vol. 37. no. 4, 1975, p. 968-977[970]

⁷¹B. Laslett & R. Rapoport., (1975) Ibid. p. 972

⁷²Kath Likened It to Snowball That Increases as They Slid Down Hill. See B. Kath., 'Snowball Sampling: Using Social Networks to Reach Non-Heterosexual Women' *International Journal of Research Methodology* vol. 8. no. 1, 2005

⁷³A. Onwuegbuzie & N.L Leech., 'A Call for Qualitative Power Analysis' *Quality and Quantity* vol. 41, 2007, p. 105-121[106]

⁷⁴F.L. Leeuw & H. Schmeets., *Empirical Legal Research: A Guide Book for Lawyers, Legislators and Regulators* (Edward Elgar Publishing Ltd., 2016) p. 110

appropriate for the research. Rather, three types of non-random sampling techniques were adopted in the research namely: the maximum variation sampling; snowballing; and the random purposeful sampling. According to Leeuw and Schmeets, if the purpose of the research is:

“to obtain insights into a phenomenon, individuals, or events, then the researcher purposefully selects individuals, groups, and settings that maximize understanding of the phenomenon.”⁷⁵

From the statement above, it is evident that the perception of the people on their social relationship with each other and their political status in Nigeria had to be considered in order to understand the impact of separation of the groups by the modern State so as to resolve the Ife-Modakeke conflict. Also, consideration had to be given to recruiting participants that could provide rich information. Patton⁷⁶ encouraged the selecting of people that are information rich when deciding on the sampling technique.

In order to get participants with rich information on the conflict and dispute resolution, the maximum sampling technique was adopted, involving selection of different individuals to demonstrate the true nature of complexity of the Ife and the Modakeke communities.

The maximum variation sampling technique assisted the researcher in selecting a wide range of participants to cover different research themes. According to Elisberg and Heisel, the maximum variation sampling approach helps to identify common patterns⁷⁷ across the main themes of the research.⁷⁸ This helped in recruiting participants to cover different ages, educational background, sexes, and experiences in dispute resolution. The importance of using maximum variation sampling was captured by the work of Allmark who noted, “groups excluded from qualitative research maybe deprived of its benefits.” Allmark’s statement is of particular importance to this study, because the research aim was to advise the Nigerian government to amend the Constitution to allow for separation of the groups in Nigeria. In order to present a convincing argument to the government, the evidence must capture the diversity of the population of the Ife and the Modakeke. The importance of capturing the diversity of the population was made by the department of Health in 2001 that “it is

⁷⁵F.L Leeuw & H. Schmeets., (2016) Ibid. p. 111

⁷⁶M.Q Patton., *Qualitative Research and Evaluation Methods* (2nd edition Newbury Park. Ca: Sage, 1990) p. 169

⁷⁷Patterns here refers to repeated themes

⁷⁸M. Elisberg & L. Heisel., *Researching Violence Against Women: A Practical Guide for Researchers and Activists* (Washington Dc. United States World Health Organization, 2005) p.106

particularly important that the body of research evidence available to policy makers reflects the diversity of the population.”⁷⁹

In order to represent the diversity of the Ife-Modakeke population, participants were selected for interviews from several areas of both the Ife and the Modakeke township. Areas here mean a number of streets grouped together under one named locality. The researcher’s contact who works in Modakeke town but is not a native of Ife or Modakeke, and had lived among the Ife and Modakeke for decades, provided a list of Ife and Modakeke main residential areas. The researcher compared this to an updated online map of both communities and discovered that the Ife-North and South Local Government areas were outside the Ife and Modakeke township. However, Ife-Central and Ife-East were within the boundaries of the township in which it was safer to conduct the interviews. The researcher randomly picked participants from the Ife-Central and the Ife-East Local Government areas. The Modakeke such as Gbogan dominated some nearby Ife neighbours, these were identified but they were not targeted for the interviews. Although there were several areas dominated by the Ife and the Modakeke, only ten areas for each group was selected. The table below shows ten areas of the Ife and the Modakeke respectively where the interviews took place.

S/N	Ife-Ife Main Areas Selected for interview	No. of Interviews Conducted	Modakeke Main Areas selected for interview	No. of Interviews conducted.
1	Aba Coker	3	Ade Owo	4
2	Ashipa/Akinlalu	8	Aranse Olukoola	4
3	Edunabon	6	Akarabata	5
4	Eleyele	8	Alapata	5
5	Ilare	8	Bosa	3
6	Iremo	2	Esuyare	5
7	Ipetumodu/Yakoyo	4	Iraye	4
8	More	4	Oke ola	5
9	O.A.U	5	Oke Otubu	4
10	Oyere	7	Oke D.O	3

⁷⁹Quote from the Department of Health: Research Governance Framework for Health and Social Care London in P. Allmark., ‘Should Research Samples Reflect the Diversity of the Population?’ *Journal of Medical Ethics* vol. 30. no. 2., 2001, p. 185-189 [189]

S/N	Ile-Ife Main Areas Selected for interview	No. of Interviews Conducted	Modakeke Main Areas selected for interview	No. of Interviews conducted.
Total		55		42

Table 3 Ife-Modakeke Sample Areas

Ten areas were selected among the Ife and ten among the Modakeke. Random houses were selected from the streets in each of the ten areas of the Ife and the Modakeke selected. In the table above, the areas with a larger concentration of streets were mostly selected. The researcher could not have unconsciously influenced the selection, because she was not familiar with the Ife or the Modakeke and had never visited the areas before. Due to time constraints and the safety considerations of the researcher, the intended total number of interviews for both groups was 120 participants 60 from each group. This number is a very small fraction of the Ife and the Modakeke compared to the actual size of the groups.⁸⁰ Therefore, the sample within the selected areas was in a ratio of 6:1: in other words, six streets in every selected area. The researcher was unable to determine beforehand how many streets were in an area, thus, there was a backup plan to extend to other areas if the 60 interviews were not covered in the ten areas selected for the Ife interviews. It was hoped that there would be at least one participant from every street totalling six participants from an area. The reality was different, some areas such as Ireemo and Aba Coker in the Ife had fewer streets five and six respectively therefore the ratio 6:1 was not followed in all areas. Some areas had more than six interviews while other areas had fewer than six.

The second sampling technique used was snowball, which according to Cohen and Arieli:

“is a distinct method of convenience sampling...commonly used to locate, access, and involve people from specific populations in cases where the researcher anticipates difficulties in creating a representative sample of the research population.”⁸¹

Since this research was conducted in conflict prone society, the researcher considered allowing the community leaders alone to recruit those whom they know will not be psychologically affected by the interview. However, this was decided against because of the

⁸⁰The Ife number over 600,000 and the Modakeke over 300,000.

⁸¹N. Cohen & T. Arieli., ‘Field Research in Conflict Environments: Methodological Challenges and Snowball Sampling’ *Journal of Peace Research* vol. 48. no. 4, 2011 p. 423-435 [426]

difficulty in getting community leader's co-operation due to their acclaimed busy schedule. As well as, the bias the researcher believes it might introduce into the research work when a community leader recruit people who have the same stand on matters as himself, thereby restricting the interviews to a single set of ideas. Kaplan, Korf and Sterk⁸² have agreed that such method of recruiting participants through snowballing can lead to bias. In addition, Brace-Govan argues that those recruited by snowball sample, may feel under compulsion and pressured to participate.⁸³ However Jacobsen and Landau⁸⁴ has recorded for the benefit of researchers their high rate of success in using snowballing sample to overcome the challenges of recruiting interview participants that are distrustful of interviewers. Such distrust usually stems from conflict societies such as the Ife-Modakeke. Cohen and Arieli noted that:

*"...in an environment affected by conflicts, all parts of society, including 'normative' sectors, can be highly suspicious of outsiders and express a preference to refrain from exposure."*⁸⁵

Therefore, in order to get those who have served in peace committees involved in the study, the snowballing technique was used in respect of these interviews. Kalton and Anderson had stated that to sample rare population, members of the general population could identify members of the rare population.⁸⁶

People who had served in Peace Committees set up by the government and foreign interveners such as the United States Agency for International Development (USAID) and Office of Transition Initiative (OTI) between 1999 and 2000 were targeted for interview because they are usually knowledgeable in the various processes of dispute resolution (including the success and failures of the resolution methods) both tribal processes and modern resolutions that they have witnessed being adopted to resolve disputes. Therefore, to search for people who had served in peace committees in the past, the researcher used screening questions to ask participants in the general population whether they had served in any committees before and to tell the researcher about others they know that have served before. The only two

⁸²C. Kaplan, D. Korf & C. Sterk., 'Temporal and Social Contexts of Heroin-Using Populations: An Illustration of the Snowball Sampling Technique' *Journal of Mental and Nervous Disorders* vol. 175, no. 9, 1987 p. 566-574

⁸³J. Brace-Govan., 'Issues with Snowball Sampling: The Lawyer, The Model and Ethics' *Qualitative Research Journal* vol. 4, no. 1, 2004, p. 52-60 [52]

⁸⁴K. Jacobsen & L.B Landau., 'The Dual Imperative in Refugee Research: Some Methodological and Ethical Considerations in Social Science' *Research on Forced Migration Disasters* vol. 27, no. 3, 2003, p 185-206 [199]

⁸⁵N. Cohen & T. Arieli., (2011) *Ibid.* p. 425

⁸⁶G. Kalton & D.W Anderson., 'Sampling Rare Populations' *Journal of the Royal Statistical Society. Series A (General)* vol. 149, no. 1, 1986, p. 65-82 [66]

members of the Modakeke representatives of the Peace Committees that were interviewed were recruited by snowballing. The first member actually called the other member on the telephone, requesting that the researcher be granted audience. He was reluctant, at first, but later agreed after much persuasion from the first member. Although it is generally agreed that the snowballing method may lead to bias, it was the only possible way at the time to get to speak with another committee member.

The proposed ages of the interviewees were from 18-30 years, 31-60 years and 61 and above. The three ranges were coded 1-3, with 1 representing 16-30 years of age, 2 representing 31-60 years of age, and 3 representing 61-years of age. These codes appear in the appendix of this thesis under the Ife and Modakeke coding. Below is a table representing the age range used.

Age Brackets	18-30 Years	31-60 Years	61 and Above
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Table 4 Age Range for Ife and Modakeke Combined

The first range 18-30 gave the researcher an opportunity to hear the views of the conflict and dispute resolution by young people affected by the conflict either by having to stop school or losing members of their families in the last violent round of conflict in 2000. Also, the young people will inevitably determine the future of the conflict, whether to continue the conflict of their elders or to consider ways of ending the conflict. The second age range was more matured and had experienced more than one crisis in their respective areas thus, are able to give more information about the conflict resolution and the history of the groups as handed down to them. The third age range was aimed at getting more information on history in the conflict and dispute resolution of the groups, as they were older and had experienced more than two violent clashes.

The sampling of the interview included uneducated⁸⁷, semi-educated⁸⁸ and highly educated⁸⁹ individuals in both the Ife and the Modakeke communities. The Ife has a long-established federal university open to all groups in Nigeria including the Modakeke.⁹⁰ The standard of

⁸⁷Those who did not attain any formal level of education

⁸⁸Semi-Educated are classified as those who attain a level of education up to Secondary School level but did not attain any degree certificate.

⁸⁹Higher education represented those who went to University, Polytechnics or Colleges of education and acquired a degree.

⁹⁰The University of Ife formerly known as the Obafemi Awolowo University was founded in 1961. See the Encyclopaedia Britannica on Ile-Ife Nigeria. Online: <https://www.britannica.com/place/Ile-Ife>

education of the interviewees was to ensure that the research recorded the views of educated people who might see things from a broader perspective. It also ensured balanced representation of the present Ife-Modakeke population.

The third sampling approach carried out by the researcher was the random purposeful sampling. This researcher chose random houses from the streets in the areas designated for the interviews because the number of households were very many in the selected areas, thus the random purposeful sampling helped to reduce the challenges of selecting participants from these areas.

Sample Size

This study represents a very small sample of the Ife-Modakeke. In total 97 participants were interviewed and only 92 could be analysed in comparison to the approximately 600,000+ inhabitants in the Ife and the Modakeke combined. The study cannot be used to represent the whole Ife-Modakeke; however, it gives a broad insight into the minds of the people. The planned number of interviews for the Ife and the Modakeke was 60-64 respectively for a combined 120 interviews. Some academics have given guidelines for deciding on sample sizes. Creswell recommended between 15-20 interviews for grounded theory research.⁹¹ Morse on the other hand recommended 30-50 interviews for ethnographic and grounded theory research.⁹² These recommendations are only guidelines but the ultimate size will depend on other factors such as cost, time and the sensitive nature of the interviews. The table below shows the planned sample size and the actual samples that the researcher could analyse from the interviews,

Age	18-30	31-60	61 and Above	Totals
Male	10	40	10	=60
Female	10	40	10	=60
Total	20	80	20	=120

Table 5 Proposed Sample Grid for Each Group (the Ife and the Modakeke)

*The number includes both committee and non-committee members.

⁹¹J.W Creswell., *Educational Research: Planning, Conducting, and Evaluating Quantitative and Qualitative Research* (Upper Saddle River, NJ: Pearson Education, 2002) p. 197

⁹²J.M Morse., *Designing Funded Qualitative Research* in N.K Denzin & Y.S Lincoln., (Eds) *Handbook of Qualitative Research* (Thousand Oaks, Ca: Sage, 1994) p. 220-235

It should be noted that the proposed number of participants to be sample between the ages of 31-60 is higher because they represent the largest number of people in the sample are.⁹³

Age	18-30	31-60	61 and above	Total
Male	3	16	5	=24
Female	4	16	6	=26
Total	7	32	11	+50

Table 6 Sample Grid Analysed in the Ife

Age	19-30	31-60	61 and above	Total
Male	4	15	3	=23
Female	3	13	4	=19
Total	7	28	7	=42

Table 7 Sample Grid Analysed in the Modakeke

The proposed sample grid assisted the researcher to ensure that diverse groups are represented in the interview. The actual samples collected revealed that the researcher's sample size was not achieved but it was close enough to produce results for analysis. The Ife sample size achieved was more than the Modakeke, because the safety of the researcher was compromised in the Modakeke and the researcher had to discontinue the Modakeke interviews and return to the United Kingdom.⁹⁴

After determining the sample size, the interview questions were drafted and checked to make sure they are able to provide data that will answer the research questions.

The Interview Questions

The research questions assisted in the formulation of the interview questions. The interview questions tried to cover all the major aspects of the research questions. The themes derived from the doctrinal and archival research carried out prior to the fieldwork were used as a guide to formulating the research questions. The use of themes from the doctrinal research was

⁹³The National Population Census 2006 by age have a combined total of ages 20-29 = 25,646505, Ages 30-59 = 34,342522 and Ages 60+ = 6, 98704. See Census 2006 Online: <http://www.population.gov.ng/images/Priority%20table%20vol%204.Pdf>.

⁹⁴A brief description of the events leading to her early termination of the interview process is provided in the risk assessment section of this chapter.

aimed at preventing the researchers' educational background in law to colour her choice of interview questions thereby creating bias. Table 8 is the format of the interview questions.

Broad Areas covered by the interviews
Introductory Questions/Settling Questions
Social structure of the community
Political history of the community
Personal dispute resolution preferences
Past community dispute resolution
Nature of the conflict
Group's perception of their relationship with the modern State
Group's preference of dispute resolution process: State initiated versus traditional dispute resolution
Effects of the conflict and dispute resolution on the groups

Table 8 Broad Areas Covered by the Interview

As seen from the table above, the interview questions were divided into nine headings with an estimate of forty-minutes to one-hour for each interview. The nine headings covered different types of questions structured after Patton's⁹⁵ types of interview questions namely, background/demographic questions, experience/behavioural questions, opinion/value questions and the knowledge questions.⁹⁶ The background questions were intended to help calm the nerves of both the interviewees and the interviewer.⁹⁷ The experience/behavioural questions enabled the researcher to analyse the personal behavioural preferences of participants in relation to their answers of the group conflict behaviour and resolution preferences. This is important as participants have been observed to respond in a socially

⁹⁵Although Patton discussed six types of interview questions that can be used in Qualitative Research this research applied 4 of the most appropriate questions. See M.Q Patton., *Qualitative Evaluation and Research Methods* (2nd edition Newbery Park. Ca. Sage, 1990)

⁹⁶Appendix 6 of this thesis provides a sample of the interview questions divided into various types of question to correspond with four of the types of questions identified by addressed Patton in his book on qualitative research methods.

⁹⁷The background questions did very little to calm the interviewer during the interviews

desirable way and not truly how they felt, because, of the interpersonal nature of interviews.⁹⁸ The third type of interview questions, the opinions/values questioning, assisted in analysing how participants' opinions relate to the realities of the times in which they are living. The final type of questions used was the knowledge questions. This assisted the researcher in determining participants believe on the true involvement of the government in their conflict and conflict resolution and what they believed to be the real solution to their conflict.

The research questions and risk assessment carried out for the fieldwork were discussed and approved by the three research supervisors. Details of the research questions and risk assessment carried out to ensure that the questions were not too sensitive to elicit negative or even violent reactions from the participants are provided for in appendix 6 of the thesis.

Risk Assessment

Prior to any research of this nature being conducted, potential hazards, which may have caused harm or distress to the participants, either psychological or physical, were taken into consideration. A copy of the risk assessment carried out prior to the interview can be found in appendix 2 towards the end of the thesis document. In the risk assessment, the criteria and monitoring mechanisms were set out for deciding the end at which the researcher might consider termination of the interview due to unjustifiable further risk of harm such as distress to the participants or safety risk to the researcher and interpreter. The extent to which risks were balanced against potential benefits of the study's contribution to knowledge was also taken into consideration. The control measures for security risk included inquiring of any festival periods so that they could be avoided. Prior to travelling for the interviews, the researcher was reliably informed that there were no festive periods at the proposed time of visit. However, she was not aware of any local elections scheduled for the time and what risk that could entail. Extra caution was then taken while conducting the interviews.

The balance of risk although judged as low prior to the visit, changed to medium because of an incident in the Modakeke palace that increased the risk to the researcher. On the third day of the final week of the interviews, while acting on the arrangements for interview made by the researcher's contact to conduct interviews among palace chiefs in the palace of the Ogunsua of Modakeke, the researcher and her interpreter called on the Modakeke palace. On arrival, the researcher explained to the palace guards her reason for coming. The guards

⁹⁸R.K Yin., *Case Study Research: Design and Methods* (4th edition Thousand Oaks Ca: Sage, 2009)

instructed her to wait outside because there was a meeting of politicians taking place inside the palace and after the meeting, the chiefs will be happy to participate. After about two hours of waiting on a bench provided at the gate of the palace, the palace guards brought news of another unscheduled local government election campaign meeting and reported that neither the palace chiefs nor the Ogunsua could see the researcher until 3pm. An arrangement was made to see the Ogunsua at 3pm and the researcher went away to conduct interviews elsewhere in the Modakeke. On the second visit at 3pm, the guards started behaving very strangely. They would not speak English anymore to the researcher and asked the researcher's interpreter in the Yoruba language if she was from the Modakeke or from the Ife. She replied that she was an indigene. They requested the researcher's place of origin but due to security reasons she declined to specify which university she was representing but repeated that she was a Nigerian researching conflict resolution. After waiting for another twenty minutes, the researcher was asked to go into the palace to see the king alone without the interpreter. That request was refused for safety reasons as the researcher insisted on taking her interpreter but the guards refused her request. The researcher had been earlier cautioned that during election periods and traditional festivals, strangers are sacrificed to the gods. Since the guards had prior knowledge of the researcher's visit as they scheduled the 3pm visit but still spent a considerable amount of time deliberating on the visit, the researcher refused to go in without her interpreter. The researcher then made the decision not to conduct interviews in the Palace of the Ogunsua and left the environment. The researcher did not deem the circumstances safe. The following day after the incident at the Palace, the researcher was conducting interviews in the Modakeke and two participants stated that there is news going around that the government had sent someone asking around about Modakeke conflict. The researcher thus believing her safety might be compromised from that time onwards decided to terminate the process and return to the United Kingdom.

Ethics Clearance

Another major factor that influenced the design of the interviews was the ethical issues involved. In collecting and using materials for this study, the researcher analysed issues such as copyright, informed consent, confidentiality and ownership. Consent was received via email from the British Library to use Maps from the British library.⁹⁹ Leeuw and Schmeets noted that researchers must "assess the participants' willingness and ability to voluntarily

⁹⁹ Email showing consent from British library for the use of maps can be found in appendix 4

consent to participation.”¹⁰⁰ Arrangement was made to ensure that the consent of participants was obtained before any interviewing took place by having an interpreter in case of someone who did not understand English to read the participant information sheet and consent form.¹⁰¹ The method of obtaining consent is described in the actual interviewing section below. Confidentiality was maintained throughout the interview by allocating pseudonym to each participant in the research writing.

Ethical clearance was sought and granted by the University of Westminster ethics committee. A copy of the ethics clearance issued by the University of Westminster is in appendix 1 of this chapter. Also, the researcher obtained the consent of Google Maps to use Google My Maps through email.¹⁰² The researcher made sure that the guidelines set by the University in part B of the ethics clearance form was adhered to.¹⁰³ The details of measures taken to prevent or reduce distress to the participants, psychologically or physically, in the study were taken into consideration. Safety measures that were taken included the researcher explaining to the participants that they could withdraw at any time without giving reason, explaining that participants did not have to answer questions if they did not wish to, ensuring that the participant information sheet was read, interpreted and understood by participants (with the help of interpreters) and their written consent given before proceeding with any interview.

Travel Insurance

Having obtained permissions from the ethics committee of the University of Westminster for the fieldwork,¹⁰⁴ the need arose to obtain travel insurance, specifically insurance for kidnap and ransom. This was essential since there was, and still is, a high prevalence of kidnaps in Nigeria.¹⁰⁵ In the foreign travel advice section on Nigeria found in the travel advice of the government of the United Kingdom website, it was noted that:

¹⁰⁰L. Leeuw & H. Schmeets., *Empirical Legal Research: A Guide Book for Lawyers, Legislators and Regulators* (Edward Elgar Publishing Ltd, 2016) p.155

¹⁰¹ A sample of the participant information sheet, the consent form and the intellectual property form used can be found in appendix 7

¹⁰² The email from google consenting to the use of google my maps can be found in appendix 5

¹⁰³ See Ethics Clearance Form Part B in Appendix 2

¹⁰⁴ See a copy of the Ethics approval in Appendix 4 to this study

¹⁰⁵ Foreign Travel Advice: Nigeria: Online at <https://www.gov.uk/foreign-travel-advice/nigeria/safety-and-security>

¹⁰⁶ Foreign Travel Advice: Nigeria. Ibid

“[t]here is a high threat of kidnapping and other armed attacks.... British nationals of Nigerian origin visiting friends and relatives are often perceived as being wealthier than locals and are at particular risk of kidnap for ransom.”¹⁰⁶

The reality of the situation meant being very cautious in making sure that plans of the visit were kept secret only letting people involved in the fieldwork such as the interpreter aware of the date of arrival and departure of the Ife-Modakeke. The question that one might consider now is why undergo all the risk for the fieldwork? The balance of risk of causing another round of violence or distress to the participants due to the research was far lower than the knowledge that was derived from the fieldwork especially as the researcher was born and raised in Nigeria. After the necessary approvals were obtained, the researcher set out on her journey to the Ife-Modakeke in Nigeria.

2.5.2.3 Stage 3: The Interviewing Stage

To ensure that participants were willing and understood the purpose of the interview, the researcher had the participants read or was read to, the participant information sheet and the consent letter before obtaining their signatures or thumbprint.¹⁰⁷ The researcher also repeated the confidentiality clause at the beginning of each interview. The response from both the Ife and the Modakeke was very disappointing when tape recording requests were made. Many declined to be interviewed, if it was to be recorded despite repeated reassurance.

Although, it was explained to the participants that the interview was for forty-minutes to one-hour, the majority of the participants were too frightened to spend such a long time talking about the conflict as they said that their identity was known in town either as those who fought during the last conflict in 1999/2000 or those in support of the conflict continuing. Thus, a few said they could only give fifteen minutes to half-an-hour in some instances. There were instances where some participants were willing to start their interviews but later stopped half way or asked the researcher to hurry up, requiring the researcher to decide which were the most important areas to ask before the participants ended the interview. For example, in the interview transcript,¹⁰⁸ it is clearly shown that interview four withdrew her consent after talking to her friends. Rather than reject those that agreed to give a small amount of time, the researcher chose to conduct the interviews choosing a few questions to meet with the wishes

¹⁰⁷ A sample of the Participant information sheet, the consent form and the intellectual property form used is in Appendix 7

¹⁰⁸ The interview transcript is in a separate document to this thesis.

of the participants. However, after a few frustrated days and a review of the interview method with supervisors in England (through telephone and email), the researcher decided to only take notes and almost every participant from then on who consented to the interview was willing to start and finish the interviews. In most cases the forty-minutes was not sufficient for the interviews, often interviews went up to 60-90 minutes. The names and ages of the participants could not be confirmed. The researcher relied upon whatever name they asked to be called and the age they choose to provide. Some refused to provide their names choosing to be addressed by their children's names for example "mama A" (mother of A).

The body language of the participants revealed a lot about the mind-set of the participants in the groups. The Modakeke people, especially, were very frightened to talk about their conflict with the Ife and conflict resolution, they were however very assertive in stating that they were different from the Ife. They showed much fear and often requested that we step away from the public eye for the interview. This is so unusual for a Nigerian setting where people sit under a tree for cool breeze to talk. In three instances on the day the researcher terminated the interview process, she was warned not to come back to conduct interviews in the area because according to the participants, news had been going around that the government had sent a spy lady to see which tribe was still holding plans to resume the conflict. For safety reasons the researcher heeded all such warnings.

To ensure privacy and anonymity, the interviews were numbered and each number coincided with the participant information sheet numbers. For those that participated by tape, the nine-theme topic guide was used with some having to be amended for brevity as the interviewees said they were only willing to give abbreviated interviews because of time. Quotes that appear in the findings are attributed with a code reference: interview 'I' and 'M' (letters I and M representing Ife and Modakeke respectively) followed by a number representing the number at which the interviews were transcribed. In addition, capital letters 'M' and 'F' represented males and females respectively. 'Y' (Young) represented 18-30-year olds, while 'Ma' represented 31-60 (Middle age) and A (Advanced) represented 61 and above. For example, a reference to interview three, a Modakeke interview by a female within the age bracket 18-30 is rendered: Interview MFYa 3. The use of the code references enables the speakers to be distinguished and it allows for confidentiality of the interviewee to be maintained without losing the context of the interview.

2.5.2.4 Stage 4: The Transcribing Stage

Interviews were conducted with both the Ife and the Modakeke during June and July 2014. However, due to increased risk in the Modakeke, the interview process was cut short. The target of 120 interviews planned was not achieved. 97 interviews were conducted, 55 between the Ife and only forty-two among the Modakeke. Although in total 97 interviews were conducted, only a combined total of 92 were analysed because some of the tape-recorded interviews conducted were either inaudible (the volume of the tape recorder was not set properly by the researcher or the participants did not speak loudly enough in some periods of the recording) or the researcher did not find an interpreter as the interpreter who was engaged for the whole set of interviews was not available for one of the Ife interviews, so one Ife interview was not interpreted into English.

The transcribing stage was the very difficult and the most time-consuming of all the interviewing stages. The denaturalized transcription approach where a researcher transcribing an interview “attempts a verbatim depiction of speech”¹⁰⁹ but rather than focus on accents and involuntary vocalization, concern is focused on the substance of the interview meanings and perceptions created during the interview. The geo-ethnic accents of the interviewees such as pronouncing “wit dat” instead of “with that” and slang were sometimes corrected and sometimes left the same way because the purpose was not to transcribe accents. Although Oliver *et al* noted that during analysis of an interview, researchers can introduce bias by making assumptions of the interviewees’ educational level based on the accents and vocalizations,¹¹⁰ this research reduced such bias by asking questions of educational background in the settling questions. Thus, the educational background of the interviewees was already established before the main interview questions were answered and therefore the bias was prevented from entering into the analysis.

Since the majority of the interviews conducted were done by note taking, the researcher had to spend time after each written interview to fill in the gaps from what was heard in that interview. Virtually all the nights were taken up in completing the writing of the interviews for each day to make sure that the shorthand was clear and readable for analysis. Some of the interviews were typed immediately while still in Nigeria and stored away, while other was

¹⁰⁹D.G Oliver., J.M Service & T.L Mason., ‘Constructs and Opportunities with Interview Transcription Towards Reflection in Qualitative Research’ *Social Forces* (Oxford University Press). vol. 84. no. 2., 2005, p. 1273-1289 [1278] Accessed 1.09.16

¹¹⁰D.G Oliver, J.M Serovich & T.L Mason., (2005) *Ibid.* p. 1283

later typed out in London. Because, the majority of the interviews were written, it was a little bit easier to go through the audio interviews at a later date. It took about six-hours to transcribe one-hour of the oral interviews into written form. A few were not audible at some points and thus could not be fully transcribed. Then the tabulation and coding of the interviews for easy description and analysis was undertaken. For the coding, abbreviations were used to capture the responses of the participants such as “Y” for Yes, “N” for No, “DK” for I do not know, “NS” for Not Sure and “NA” for No answer. In order to respect the wishes of the participants and protect them from any distress during the interview, participants who did not want to answer a question was allowed to say “no answer.” The replies of those that answered no answer was not included in the total percentage calculated.

2.5.2.5 Stage 5: Analysing Stage

The data from the interviews were analysed using four of the stages of data analysis promoted by Eisenhardt namely, within-case analysis, cross-case analysis, constant comparisons, and comparison of emergent concepts with ‘extant literature’.¹¹¹

The data from the interviews were analysed using themes that emerged from the archival materials and literature selected. This was possible because a broad range of literature and documents were consulted for both the historical aspect of the research and the international law aspect. The process of identifying themes was described by Epstein and Martin as coding.¹¹² According to Epstein and Martin, coding “is the process of translating properties or attributes of the world (variables) into a form that is susceptible to systematic analysis.”¹¹³ In order to carry out such systematic analysis, Bryman, included giving names to data in his definition of coding as the processes where “data are broken down into component parts, which are given names.”¹¹⁴ Names used for the coding included whether the groups were the same. The language the same; Pre-colonial history; colonial history; post-colonial history; tribe’s honour tradition; government intervention; conflict over and so on. The encyclopaedia for qualitative research methods noted that codes could be derived from existing literature or directly from the data collected.¹¹⁵ In this research, the codes used were derived from a

¹¹¹K.M Eisenhardt., ‘Building Theories from Case Study Research’ *The Academy of Management Review* vol. 14. no. 4, 1989, p. 532-550[539-544]

¹¹²L. Epstein & A. Martin., *An Introduction to Empirical Legal Research* (Oxford: Oxford University Press, 2014)

¹¹³L. Epstein & A. Martin., (2014) *Ibid.* p.95

¹¹⁴A. Bryman., *Social Research Methods* (Oxford University Press, 2001) p. 391

¹¹⁵L.M Given., (Ed) *The Sage Encyclopaedia of Qualitative Research Methods* (vol. 1&2. Sage: A Reference Publication, 2008) p. 86

combination of the themes arrived at before the interviews as well as new ones that emerged from the interview data.

The first stage of the data analysis – initial coding – was undertaken by simply reading the interviews. Bryman stated that the researcher should first read through the initial set of notes without making any interpretations.¹¹⁶ During this stage of analysis, the researcher did not decide on the importance of the information, it was mainly identifying where they fit into a theme. This approach was used to identify patterns and theoretical properties in the data. Notes about significant remarks and observations were made before identifying connections between the codes. The initial patterns and observations were tabulated and named Ife coding combined (taped and notes) and Modakeke coding combined (tapes and notes). These can be found in Appendix 13 and 14 respectively.

The second stage of analysis involved actually looking at the coded data from different viewpoints to find similarities and differences within the data. In the case of the Ife interviews, within case analysis was carried out by looking for similarities and differences between the Ife interviews. These included similarities and differences between the answers provided by the different age groups and sexes. This created connections that were useful for arriving at the conclusion in chapter 8. The importance of identifying connections was emphasized by Leeuw and Schmeets when they said that:

“Examining relationships is the centrepiece of the analytic process because it urges the researcher to move from description of the people and settings to explorations and explanations of why things happened as they did”¹¹⁷

The interviews were checked and rechecked to discover the repeating codes and concepts. The codes were placed into categories and the categories were compared across all the interview transcripts and the documents collected. The coded segments were compared by the use of questions such as how this text is similar to or different from the preceding interview text. What kinds of ideas are mentioned in both the interviews conducted and the documents collected. With this, the researcher was able to identify similarities, differences, and general patterns in all the data collected.¹¹⁸ Where the researcher discovered that new categories

¹¹⁶A. Bryman., (2001) Ibid. p 398

¹¹⁷H. L. Leeuw & H. Schmeets., (2016) Ibid. p. 203

¹¹⁸G.A Bowen., ‘Naturalistic Inquiry and the Saturation Concept: A Research Note’ *Qualitative Research* vol. 8. no. 1., 2008 p. 137-152 [144]

emerged from a data source, the previous transcripts of the interviews and the documents gathered were re-analysed to determine their category. This helped to narrow down excess categories and complement underdeveloped categories.

To capture the relationships between categories, Miles, Huberman and Saldana¹¹⁹ encouraged the use of a matrix which involves putting the relationships in a table with columns to enable cross-sectional analysis. They describe how to analyse data in the matrix by first having a quick scan of the columns in the matrix, identifying themes and patterns, comparing the themes and patterns, and understanding how the themes and patterns fit together within the case analyses and between case analyses.

The Matrix system was used to make general comparisons of participants' or interviewees' backgrounds, comparing the responses of older age categories such as the answers given by age 60 plus interviewees with those given by younger age categories such as age 19-30 interviewees. An example of in-case and cross-case analysis carried out is provided below.

As earlier mentioned in the sub-heading sampling/recruiting participants, the interviews included males and females aimed at achieving balance to the interview as the perception of the people was easily discovered from both male and female experiences. To check whether there was consistency in the answers given, the researcher used in-case analysis and cross-case analysis. In the in case-analysis, the answers provided by different sets of participants of the same group were compared and analysed. The cross-case analysis was a comparison between answers provided by Ife participants to those provided by the Modakeke participants. After several comparisons along the themes of the codes, the fourth stage of the research began: the comparison of the findings with extant literature and knowledge. The result of the comparisons is featured in different chapters of the thesis.

2.5.2. Stage 6: 10 Validity and Reliability

One method of testing the validity of the fieldwork is through comparisons of emerging concepts with "extant literature."¹²⁰ Eisenhardt recommended that questions such as, what is this finding similar to and why? What does this contradict? And so on, can help in comparing

¹¹⁹M.M Huberman & J. Saldana., *Qualitative Data Analysis: A Methods Sourcebook* (London: Sage, 2014) p. 115-119.

¹²⁰K.M Eisenhardt., (1989) Op cit. p. 544

the work with literature.¹²¹ This researcher compared the study with the published works of other academics on the study of dispute resolution in stateless societies, the history of the tribes, the effect of the modern State on the Ife-Modakeke conflicts and the methodology. Published works of academics such as Rouland,¹²² Roberts¹²³, Evans-Pritchard¹²⁴ where consulted for the study of dispute resolution in ancient and urban societies. The work of Johnson¹²⁵ and Akinjogbin¹²⁶ on the history of the Yoruba, on State impact¹²⁷ and Yin¹²⁸ on methodology were compared with the findings of the research. The process described in existing literature was different from this study in that they did not focus on resolution of the Ife-Modakeke conflict. Also, this study contributes to knowledge by demonstrating that urban societies with ancient conflicts on autonomy and internal self-determination can achieve dispute resolution through political separation in a modern State system.

Flick also noted that to test the validity of research, the information gathered must be genuine and not from unquestionable origin, with consent given and research ethics followed.¹²⁹ The researcher made sure that ethics approval was given by the University of Westminster before embarking on the fieldwork, also there was participant information read to the participants and their consent given in form of signing the consent form or in a few cases thumb-printing the form. All signed participant observation and consent forms were kept safe in locked locker and are available for auditing.

To ensure that the study is valid, Chambliss and Schutt noted that: “Data collection should not begin unless the researcher has a plan that others see as likely to produce useful knowledge”¹³⁰ The researcher discussed all plans for the fieldwork including the going through the interview guide with her research supervisors before embarking on the fieldwork. The University of Westminster also scrutinized the risk assessment carried out by the

¹²¹K.M Eisenhardt., ‘Building Theories from Case Study Research’ *The Academy of Management Review* vol. 14. no. 4 October, 1989, p.532-550 [544]

¹²²N. Rouland., *Legal Anthropology* (The Athlon Pres, London, 1994)

¹²³S. Roberts., *Order and Dispute: An Introduction to Legal Anthropology* (Penguin Books, 1979)

¹²⁴E. Evans-Pritchard., *The Nuer: A Description of the Modes of Livelihood and Political Institutions of a Nilotic People* (Oxford University Press, 1940)

¹²⁵S. Johnson., *The History of the Yoruba from the Earliest Times to the Beginning of the British Protectorate*. (George Routledge and sons Ltd., 1921)

¹²⁶A. Akinjogbin., *War and Peace in Yoruba Land 1793-1893* (Heinemann Educational Books Nigeria, 1998)

¹²⁷T.A Imobighe., *Civil Society and Ethnic Conflict Management in Nigeria* (Spectrum Books Limited Ibadan, 2003)

¹²⁸R.K Yin., *Case Study Research: Design and Methods* (4th edition. Thousand Oaks Ca: Sage, 2009)

¹²⁹ U. Flick., *An Introduction to Qualitative Research* (London: Sage, 2009) p. 387

¹³⁰D. Chambliss & R. Schutt., (2015) Op cit. p. 353

researcher before embarking on the fieldwork, weighing the risk to the benefit of knowledge to be derived from the fieldwork.

According to Miles *et al*,¹³¹ for the research to be reliable, the research process must be consistent across researchers and their methods of investigation. This research method of investigation namely case study method comprising interviews is consistent with previous studies of the Ife-Modakeke conflict. As discussed in chapter two of this thesis, legal anthropologists who had studied African societies such as the Ife and the Modakeke have done so by means of fieldwork where they ask questions and observe. Previous works on the Ife-Modakeke conflict have also used interviews for their study of the conflict.¹³²

2.5.2.7 Stage 7: The Reporting Stage

The reporting of the fieldwork was done using grounded theory and discourse analysis. Charmaz defined grounded theory as “systematic guidelines for collecting and analysing data to build middle-range theoretical frameworks that explain the collected data.”¹³³ Charmaz’s definition reveals a focus on building theory from data collected. Although this study had already identified themes, grounded theory method featured because the themes were not fixed, they were open to refinement by emerging themes. Eisenhardt noted that for grounded theory “[n]o construct is guaranteed a place in the resultant theory, no matter how well it is measured.”¹³⁴ In order to build theory from data collected, Oliver *et al* noted that grounded theory is concerned with perceptions rather than how it is communicated,¹³⁵ therefore rather than focusing on how the interactions during the conversations are analysed, this research features the meanings and perceptions created during the interviews. In addition, Chambliss and Schutt noted that grounded theory is characterised by summarising the data into categories, refining the links between the categories and noting the evolving theory.¹³⁶ Despite using the grounded theory the reporting style features discourse analysis. Webley’s explanation of discourse analysis includes conversation analysis which often focuses on the

¹³¹M. Miles, A. Huberman & J. Saldana., *Qualitative Data Analysis: A Methods Sourcebook* (London: Sage) p.312

¹³²See Discussions in Chapter One Literature Review.

¹³³K. Charmaz., ‘Grounded Theory: Objectivist and Constructivist Methods’ in N. Denzin & Y. Lincoln (eds) *Handbook of Qualitative Research* (Sage, 2000) p. 509-536[509]

¹³⁴K.M Eisenhardt., (1989) *Ibid.* p. 534.

¹³⁵D.G Oliver, J.M Serovich & T.L Mason., ‘Constraints and Opportunities with Interview Transcription: Towards Reflection in Qualitative Research’ *Social Forces* (Oxford University Press) vol. 84. no. 2 2005, p. 1273-1289 [1279]

¹³⁶D. Chambliss & R. Schutt., *Making Sense of the Social World. Methods of Investigation* (London: Sage, 2015) p. 341

language and repetitions in the conversation being studied.¹³⁷ The research reporting in chapter eight is styled in a discussion manner using the language of the Ife and Modakeke people as much as possible in the quotations that are used to explain findings. Chambliss and Schutt noted that conversation analysis focuses on how the reality of the situation is understood in the conversation.¹³⁸ Therefore, the findings reported in different chapters are reported with only as much detail as are relevant to the conversations they are featured. Illustrative quotes are used as evidence to support the themes that emerged from the interviews conducted.

2.6 Researcher's Standpoint

The researcher is a native of Delta state in the South-South of Nigeria and do not speak the Yoruba or Oyo language. The researcher does not relate in any way (political, economic, religion) to the Modakeke or the Ife so takes a neutral stand in the Ife-Modakeke conflict.

2.7 The Impact of the Fieldwork on the Doctrinal Study

The doctrinal study was about exploring economic and political separation of the Ife and the Modakeke to end their long-standing conflict. Physical separation was not explored due to the nature of the land tenure in modern Nigeria. However, the possibility of economic and political separation through the notion of internal self-determination for the Modakeke by manes of a Modakeke local government was explored. Since group autonomy was the underlining message to the government of Nigeria, it was only necessary to get evidence from the people themselves in the conflict. The oral interviews thus provided contemporary perspectives of the people on their pre-colonial, colonial and modern conflict position and possible dispute resolution. The fieldwork therefore complements the gaps of the documents by providing evidence of the benefits and disadvantages of not separating the groups.

The fieldwork greatly impacted on the research questions and the conclusions arrived at in this thesis. The preparatory work for the fieldwork impacted on the research ethics by increasing the researcher's consciousness of following approved ethical standards both in carrying out the interviews and in writing out the observations. The consent of the participants and waiver of the intellectual property rights of participants was impressed on the researcher

¹³⁷T. Webley., 'Qualitative Approaches to Empirical Legal Research' in P. Cane & H. Kritzer., (Eds) *The Oxford Handbook of Empirical Legal Research* (Oxford: Oxford University Press, 2015) p. 926-951

¹³⁸D. Chambliss & R. Schutt., (2015) *Ibid.* p. 337

while preparing for the interviews. The research questions for the thesis were amended slightly to accommodate findings from the fieldwork and the ethics of the research. For example, before the fieldwork, the emphasis of the research question was on identifying the perception of the Ife-Modakeke on the right of the Modakeke to self-determination from the Ife and the modern State intervention in their conflicts to determine why the conflicts keep reoccurring. The researcher, however, discovered during the fieldwork that rather than just expressing their views of autonomy, the people were more concerned about resolving the conflicts. Thus, the research questions were amended to include resolution of the conflicts by separation.

The fieldwork introduced views of the Ife-Modakeke on issues that had not been covered by the literature. Among those issues are matters of Modakeke quest for autonomy from the Ife stronger perception than the Ifes. While Ife had more attachment to land as the cause of the conflict, the Modakeke was more for local government of their area and also perceived autonomy of the groups. For example, only from the fieldwork could the researcher determine the people's perception of their political status in relation to the modern State. The fieldwork thus established that the Ife-Modakeke retained their local norms even though recognising the authority of the Nigerian State over them. This discovery confirmed the analysis in chapter six, which deals with autonomy and self-determination for the Modakeke. The chapter emphasised what perspective of autonomy and self-determination was more suitable to persuade the Nigerian State to grant self-determination to the Modakeke from the Ife. Importantly also, the fieldwork puts the results of the interviews in line with some prior works¹³⁹ on group dispute resolution which incorporated fieldwork in their study of societies in Africa as discussed in chapter three.

2.7.1 Summary

This section has provided the methodology for fieldwork carried out among the Ife and the Modakeke in Nigeria. It has attempted to describe the fieldwork carried out and justification for it, the method of analysing the findings and validity of the fieldwork. The fieldwork has contributed to make the whole thesis a substantial contribution to knowledge in the field of group conflict and dispute resolution.

¹³⁹ See discussions of Anthropologists in Chapter three.

2.8 Conclusion

This chapter have provided the details of the research methodology used in answering the research questions posed in chapter one of the thesis. The four sections of this chapter have described, with justifications, the use of triangulation for gathering information for the research. The case study method involving document analysis, archival research and oral interviews was used to answer the five research sub-question. The first question on the pre-colonial structure of the Ife-Modakeke was answered with the aid of information from the document analysis and oral interviews. The second research question was answered using the document analysis and archival materials preserved by the colonial administration in Nigeria. The third, fourth and fifth research sub-questions were answered by means of document analysis both doctrinal and non-doctrinal analysis.

The methodology has helped the researcher to constantly reflect on the materials being gathered and how they were being analysed by the researcher for valid conclusions to be drawn. It is hoped that this will provide other researchers and readers of this thesis with a basis to understand and access for themselves the validity of the arguments put forward in the preceding chapters.

The next chapter examines the anthropology of dispute resolution in primitive and urban societies and the pre-colonial social, economic and political structure of the Ife-Modakeke. The next chapter attempts to answer the first research sub-question by analysing published sources and the oral history of the people on their social, economic and political structure.

3. CHAPTER THREE: THE PRE-COLONIAL HISTORY OF THE IFE AND THE MODAKEKE AND THE IDEA OF SEPARATION

3.1 Introduction

This chapter will analyse the social, economic and political history of the Ife and the Modakeke as part of the wider Yoruba group in Nigeria. The analysis in this chapter will seek to answer the first research sub-question: “to what extent does the pre-colonial social, economic and political structure of societies such as the Ife and the Modakeke demonstrate that separation was useful or not for conflict prevention and resolution? And further how successful was separation in preventing and managing the Ife-Modakeke conflict in pre-colonial times?”

To answer this question, it is necessary to first identify the social, economic and political structure of the Ife and the Modakeke as part of the larger Yoruba group in Nigeria. Having identified the social, economic and political structure of the groups, the next step is to determine whether these structures demonstrate separation as a useful tool for conflict prevention and resolution in pre-colonial Ife-Modakeke history. As background, it is also necessary to analyse the origin of the Ife and the Modakeke in West Africa and the root causes of the pre-colonial Ife-Modakeke conflict that necessitated a consideration of past separation attempts at resolution and, by extension, determine whether separation is relevant and applicable to the resolution of the modern Ife-Modakeke conflict as proposed in this research. The justification for this chapter is the need to lay the foundation for readers to understand the Ife-Modakeke people and the effect of their social norms in their conflict. This chapter argues that the Ife and the Modakeke are part of the Yoruba group in West Africa and that although they had close cultural and economic ties, they enjoyed political and judicial autonomy and self-determination from each other as Yoruba sub-groups. It also shows that pre-colonial dispute resolution of the Ife-Modakeke was highly dependent on hierarchical authority and as such, physical separation was possible at the request of the highest authority of the land. However, the loss of support from the various checks and balances existing within the authority, led to an unsuccessful resolution of the Ife-Modakeke conflict in pre-colonial times. By means of evidence from the history of the Ife-Modakeke conflict and dispute

resolution, this chapter lays the foundation for advising the government of Nigeria to grant the Modakeke economic and political self-determination from the Ife.

3.2 Background: The Origin of the Ife and the Modakeke as Part of the Yoruba of West Africa and Nigeria, the Causes of Their Pre-colonial Conflict and Separation Attempts at Resolution

With respect to the origin of the Ife and the Modakeke, this thesis analyses the Ife and the Modakeke as part of the broader Yoruba group in Nigeria as they are each highly influenced by the Yoruba civilisation which is the result of their origins and cultural ties.

3.2.1 The Yoruba of West Africa

The Yoruba are very prominent in the history of West Africa. In fact, Falola and Genova rightly noted that “there is perhaps no other single African people who have commanded so much attention as the Yoruba.”¹ They can be found in West Africa with the greatest number in the western part of Nigeria.² Yoruba is the “third largest ethnic group in Africa”³

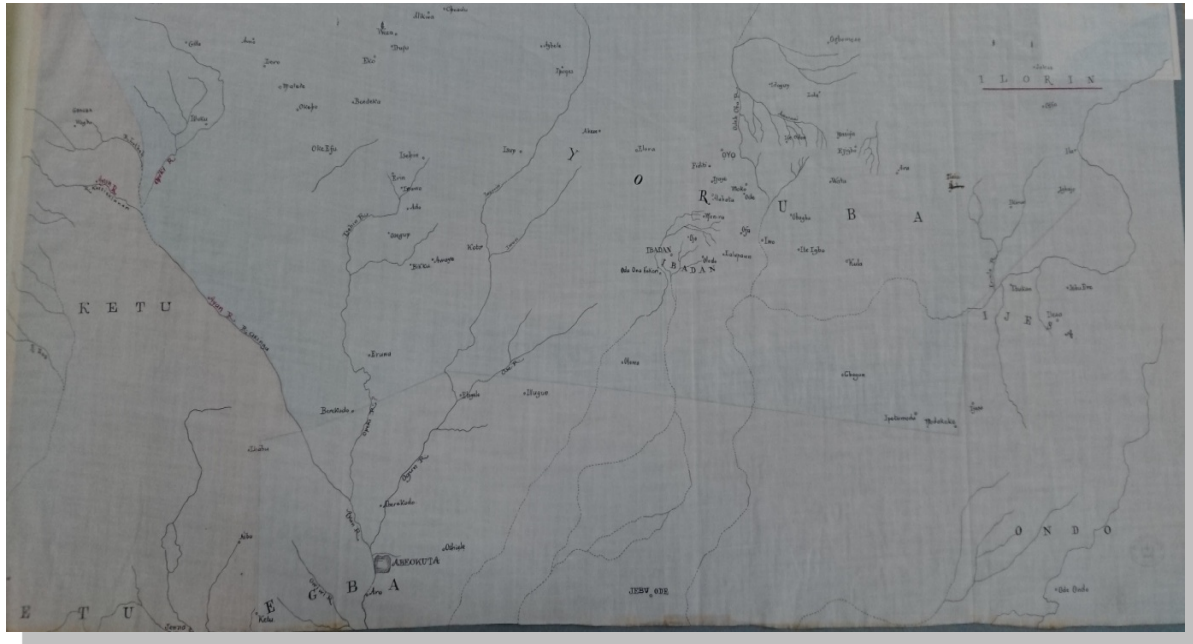
Generally, the term ‘Yoruba groups’ is used to describe communities occupying western Nigeria who speak the Yoruba language and not a collection of people under one hierarchical government with sub-groups. The map of the pre-colonial Yoruba land shows the different Yoruba communities herein referred to as groups.⁴

¹T. Falola & A. Genova., *Yoruba Identity and Power Politics* (University of Rochester Press, 2006) p. 4

²‘Yoruba People. New World Encyclopaedia’ June 10, 2014. Retrieved 01. December, 2015. Online: http://www.newworldencyclopedia.org/entry/Yoruba_People&Oldid=982330

³ T. Falola & D. Oguntomisin., *Yoruba Warlords of the 19th Century* (Trento, NJ: Africa World Press, 2001) p. 1

⁴Map MFQ 853 Conservative Department, National Archives, Kew Gardens London. Larger Picture of This Map Is in Appendix 6



Map 1 Pre-colonial Yorubaland identifying Yoruba groups including the Ife, the Oyo and the Modakeke

The history of the Yoruba in West Africa can be derived from several sources, such as serology, archaeology, linguistics, and local legends which all point to a very early start of the Yoruba. This is contrary to some early works of historians who claim that West Africa had no history. For example, Cromwell wrote that “[s]o far as Western Africa is concerned, there is no history.”⁵ Also, Fry, who observed the artistic works of the Africans he studied, wrote that Africans had no culture.⁶ However, Equiano claimed Africa to be the lost tribes of Israel from which all humans originated.⁷ The origin of West Africa has been traced by linguistic configuration and blood group maps.⁸ Christopher Wrigley, who argued the origin of West Africa based on linguistics configuration of Niger-Negros, clearly posited that present inhabitants of West Africa, including, the Yoruba’s must have been living in the region for several thousands of years.⁹ Furthermore, Garlick has attempted to trace African groups by providing blood-group maps of Africa.¹⁰ More recent work on the African peoples has shown that West African settlers developed culture, as evidenced by the Nok civilisation of 1000 to

⁵A. Crumple., *The Progress of Civilization Along the West Coast of Africa*. In *His Future of Africa* (New York: Charles Scribner 1986) p.106-107, 113

⁶R. Fry., *Vision and Design* (New York Penguin, 1940) p. 90-91

⁷O. Equiano., (C. 1745-97) *The Life of Olaudah Equiano* (The African (2 Volumes) London 1789. Reproduced 1969) p. 1, 30-44[37-42]

⁸ C. Wrigley., ‘Linguistic Clues to African History’ *Journal of African History*. Third Conference in African History and Archaeology: School of Oriental and African Studies. University of London vol. 3 no. 2., 1962 p. 269-272; J.P Garlick., ‘Blood Group Maps of Africa’ *Journal of African History*. Third Conference in African History and Archaeology: School of Oriental and African Studies. University of London vol. 3. no. 2., 1962 p. 297-300.

⁹ C. Wrigley., (1962) *Ibid*. p. 269-70

¹⁰ J.P Garlick., (1962) *Ibid*.

200 BCE.¹¹ Basil also has traced the origin of West African cultures to 1200 BCE.¹² Regardless of the seemingly infinite link of Africa to human existence, this thesis restricts the pre-colonial times of the Yoruba to the 16th century when documentary materials such as Yoruba-related artefacts remain available. Materials on the Yoruba are mostly linked to 16th century writings such as those of James Welsh¹³ who made voyages to Africa (Benin), John Ogilby's *Africa* in 1670¹⁴ with descriptions of the African regions he visited such as Egypt and Libya, Robert Norris's ¹⁵ 18th century writings as an African trader, as well as, the 19th century works of Mary Kingsley.¹⁶ In addition, Flint¹⁷ and Hodgkin¹⁸ have diligently traced the history of major groups in Nigeria leading to a conclusion that before the 16th century there was no documentary evidence on the Yoruba people of which the Ife and the Modakeke are sub-groups. However, archaeologists have placed the history of the Yoruba to 1000 to 1400 A.D.¹⁹ The Encyclopaedia Britannica reported that the Yoruba seem to have migrated from the east to lower Niger river.

As noted in chapter one under the background to the study, the term Yoruba was a colonial invention. However, before the use of the term Yoruba, Adediran noted that other words to identify the people such as "Anago" and "Olukumi" were already being used. As a people with common origin and culture, Adediran further noted that for the Yoruba "the exact period when the differentiation into sub-ethnic units occurred is not certain."²⁰ However, in the 16th century, sub-groups such as the Oyo and the Ijebu were identifiable by European writers.²¹

In the pre-colonial era, Yoruba kingdoms were large with capitals of substantial size. There were the Oyo, Ife, Ijebu and Owu and smaller Yoruba sub-groups such as the Ekiti and Egba.²²

¹¹ T. Falola & G.O Oguntomisin., *Yoruba Warlords of the 19th Century* (Trento, NJ: Africa World Press, 2001)

¹² D. Basil., *West Africa Before the Colonial Era: A History to 1850* (London: Longman, 1998)

¹³ J. Welsh., *Two Voyages to Benin Beyond Guinea I in 1588 and 1590* in R. Hakluyt, *The Principal Navigations, Voyages, Traffiques and Discoveries of the English Nation* vol. 4, London, 1904 p. 450-58 Google scholar

¹⁴ J. Ogilby., *Africa: Being an Accurate Description of The Regions of Egypt, Barbary, Lybia, and Billedulgerid.* (The Johnson London, 1670)

¹⁵ R. Norris., *A Short Account of The African Slave-Trade* (London: Printed for Londes, 1791)

¹⁶ M.H Kingsley., *1862-1900 Mary Kingsley in Africa, Her Travels in Nigeria and Equatorial Africa Told Largely in Her Own Words.* By Rosemary Glynn (London George, G., Harrap & Co, 1956)

¹⁷ J.E Flinct., *Sir George Goldie And the Making of Nigeria* (Oxford University Press, 1960)

¹⁸ T. Hodgkin., *Nigerian Perspectives: An Historical Anthology* (2nd edition, Oxford University Press, 1975)

¹⁹The Metropolitan Museum of Arts, Dates the Ife Terra Cotta Heads Discovered To 1000 AD. Online: http://www.metmuseum.org/toah/hd/lfet/hd_lfet.htm

²⁰ B. Adediran., *The Frontier States of Western Yorubaland 1600-1889*(French Institute of Research in Africa, 1994) p. 8

²¹S.O Biobaku., *Sources of Yoruba History* (Oxford Studies in African Affairs: Oxford Clarendon Press, 1973) p. 9-11

²² P.C Lloyd., *The City of Ibadan* (Cambridge University Press, 1967) p. 11

Yoruba is unified through language and origin and “exhibited a strong presence in pre-colonial West Africa.”²³

There seems to be uniformity on the political autonomy of the Yoruba sub-groups by authors of Yoruba history. For example, Oguntomisin noted that while all the Yoruba groups formed a civilisation, they lived separate lives and all the Yoruba kingdoms developed independently under their respective rulers.²⁴ Ajisafe also stated that “[e]very [Yoruba] tribe [had] its own form of government...”²⁵ On the other hand, consider the arguments of Agbibo that there was nothing like a Yoruba group in ancient Nigerian history and that even though they had common descendants, they lived completely autonomous lives and that the pre-colonial Yoruba knew the various communities as autonomous areas.²⁶ In fact, he claimed in agreement with other writers that even ancient Yoruba language similarities were mutually unintelligible.²⁷ It should be noted however, that regardless of their mode of formation, new kingdoms were allowed to rule themselves independently, even newly conquered ones were allowed to rule themselves subject to annual tributes paid to the master conqueror.²⁸ This clearly is some proof of the political autonomy the sub-groups enjoyed in the Yorubaland.

Because of these differences in the autonomy of the Yoruba some writers such as Lloyd²⁹ and Atanda³⁰ have warned that the Yoruba should not be discussed historically as if they were one, because in reality, they have varied patterns of government and linguistic variables. Yoruba sub-groups formed alliances when they needed to, but notably, “all of them never united for war.”³¹ Despite these differences, Lloyd has noted that the distinctions between the Yoruba sub-groups are not recognised by the Yoruba themselves and were not of a magnitude to affect the work of scholars such as ethnographers in discussing the Yoruba as a whole.³² Also, Adediran have noted that pre-19th century Yoruba history reveals kinship ties between the rulers of major Yoruba kingdoms such as sharing the properties of a dead Oba among the

²³ T. Falola & A. Genova., *Yoruba Identity and Power Politics* (University of Rochester Press, 2006) p.2

²⁴ G.O Oguntomisin., ‘Political Change and Adaptation in Yorubaland in the Nineteenth Century’ *The Canadian Journal of African Studies*. Taylor and Francis Ltd on behalf of The Canadian Association of African Studies vol. 15. no. 2, 1981, p. 223.

²⁵ A.K Ajisafe., *The Laws and Customs of the Yoruba People* (London George Routledge & Sons, 1924) p. 17

²⁶ D.E Agbibo., ‘Ethno-Religious Conflicts and the Elusive Quest for National Identity in Nigeria’ *Journal of Black Studies* vol. 44. no. 1, 2013 p. 3-30 [10-13]

²⁷ D.E Agbibo., (2013) Ibid. p. 13

²⁸ A. Oyewole & J. Lucas., (2000) Ibid. p. 426

²⁹ P.C Lloyd., ‘Traditional Political System of The Yoruba’ *S.W Journal of Anthropology* vol.10. no.1 p. 366-384

³⁰ J.A Atanda., ‘Government of Yoruba in Pre-Colonial Period’ *Tarikh Iv*, no. 2, 1973, p. 1-9

³¹ T. Falola & Oguntomisin., *Yoruba Warlords of the Nineteenth Century* (Africa World Press, Inc., 2001) p. 1

³² P.C Lloyd., ‘Agnatic and Cognatic Descent Among the Yoruba’ *New Series* vol. 1 no. 4, 1966, p. 484-500 [489]

other Yoruba Obas.³³ Thus, for the purpose of this research, the Ife and the Modakeke will be analysed as part of the broader Yoruba group. As is demonstrated below, it is this link to the Yoruba of Nigeria that ties both the Ife and Oyo migrants whom later became the Modakeke together culturally. A more detailed analysis of the factors that make the Yoruba a single cultural unit such as geography, language and religion will be considered under the social, economic and political section of this chapter.

3.2.2 The Origin of the Ife and the Modakeke as Sub-groups of the Yoruba

As will be shown below, the history of the Ife and the Modakeke demonstrates that the Ife had a special spiritual place in the lives of the Yoruba speaking people which serves to unite the Yoruba culturally and linguistically but not politically. It follows that, it may not be easy to separate the Yoruba sub-groups culturally, but they could be separated politically.

It is generally thought that the Ife group was the result of creation by one of the sons of God Oduduwa whom his father sent to create the world.³⁴ According to the myth, Ile-Ife³⁵ was Oduduwa's first point of call and from there all other Yoruba³⁶ migrated and formed new settlements.³⁷ Thus Ile-Ife³⁸ became known as the spiritual centre for all the Yoruba sub-groups and the cradle of the Yoruba speaking people.³⁹ Since the Ife is said to be the cradle of the Yoruba race,⁴⁰ could it be concluded that Ife had sovereign control over all Yorubaland? Documentary evidence available on the pre-colonial history of Yoruba sub-groups reveals that the Ife had an autonomous status. For example, the Treaty between H.M the Queen and the King, Chiefs, Elders and Peoples of Ife 1888, noted that pre-colonial Ife were perfectly independent and paid no tribute to any other power.⁴¹ Also, there were separate treaties

³³ B. Adediran., *The Frontier States of Western Yorubaland 1600-1889. State Formation and Political Growth in an Ethnic Frontier Zone* (French Institute for Research in Africa, 1994) p. 58

³⁴ J.A Atanda., *An Introduction to Yoruba History* (Ibadan University Press, 1980) p. 2

³⁵ Ile-Ife is the land while Ife refers to the people of Ile-Ife

³⁶ Eades pointed out that the use of the term Yoruba as identity for the Yoruba speaking tribes was as recent as the 19th century brought about by the colonial masters. See J.S Eades., *The Yoruba Today* (Cambridge University Press, 1980) p. 2

³⁷ Lloyd noted that settlement patterns led to the expansion of the Yoruba. See P.C Lloyd., *Yorubaland Law* (Oxford University Press, 1962) p. 54-56

³⁸ Ile-Ife is the name of the Yoruba settlement in south west Nigeria where the Ife people live. The town is Ile-Ife while the people are called the Ife.

³⁹ J.A Atanda., (1980) Ibid. p. 2

⁴⁰ The Encyclopaedia Britannica. www.Britannica.Com/Ebchecked/Topic/282720/Ile-Ife

⁴¹ Treaty between H.M the Queen and the King, Chiefs, elders and peoples of Ife 22nd May 1888. In the map of Africa by Treaty. 3rd edition. British Colonies, Protectorates and Possessions in Africa. Frank Cass & Co UK. p. 106 available in the British Library 79. B.S p. 619 London. Also, in CSO 5/1/15, National Archives Ibadan.

between H.M. the Queen and other Yoruba sub-groups.⁴² Forde noted that there was never a single political authority for the Yoruba sub-groups.⁴³ In addition, Akinjogbin stressed that the historical consciousness of an average Yoruba is restricted to his sub-cultural group and not the whole of Yorubaland.⁴⁴ Ogunremi and Adediran argue that because most ancient Yoruba towns sprang from the Ife, either by direct migration from Ife through mandate from the Ife to form their own town or through towns acquired by conquest of the Ife, it is generally accepted that the Ife is the cradle of the Yoruba.⁴⁵ For his part, Obayemi has argued that the reason why other Yoruba groups accepted that myth was that the Ife could have been the source of the crown beads from which other Obas (Yoruba rulers) got their crowns.⁴⁶ Writing passionately about the place of the Ife in Yoruba, Omidiora wrote that Ile-Ife should be to the Yoruba as Jerusalem is to the Jews.

From the above discussion, it can be concluded that Yoruba groups, including the Ife, were politically autonomous in pre-colonial times but the Ife did not act as the political sovereign of the Yoruba.

In pre-colonial times, the Ife was influential in the Niger-Benue area.⁴⁷ As an established kingdom, the Ife has been traced to the 11th century.⁴⁸ Even though Frobenius claimed to have discovered a lost continent in the 1911 when he discovered sculptures of bronze in Ile-Ife,⁴⁹ by the 12th and 13th centuries Ife was known for its terracotta heads and bronze pieces.⁵⁰ By the 15th century, several other Yoruba kingdoms coexisted alongside Ife, “each with its walled capital, secluded king claiming Ife origins, city chiefs heading powerful co-resident groups, and outlying villages.”⁵¹ One of the kingdoms that claimed origins from the Ife was the Oyo, said to have been founded by one of Oduduwa’s sons Oranmiyan who left Ile-Ife to found the Oyo people.⁵² The old Oyo kingdom covering Dahomey (now Republic of Benin) and Nupe

⁴²The Treaty of Peace, Friendship and Protection between King (Alaafin) of Oyo and Head of Yoruba Land and H.E., G.T Carter on Behalf of the H.M the Queen, 23rd July, 1888. Available in the British Library 79 B.S. p. 628, 18 H.C. T 198, M.A. T 430 Also in CSO 5/1/18. National Archives, Ibadan.

⁴³ D. Forde., *The Yoruba Speaking Peoples of South West Nigeria* (International African Institute, London, 1961) p. 19

⁴⁴ A. Akinjogbin., *War and Peace in Yoruba Land 1793-1893* (Heinemann Educational Books, Nigeria, 1998) p. 16

⁴⁵ D. Ogunremi & B. Adediran., *Culture and Society in Yoruba Land* (Eds. Rex Charles Publication, Ibadan, Oyo State, 1998) p. 9

⁴⁶ A. Obayemi., *The Yoruba and Edo-Speaking Peoples and Their Neighbours Before 1600 A.D* in J.F.A Ajayi & M. Crowder., (Ed.) *History of West Africa* (Nigeria: Longman, 1976) p. 204-205

⁴⁷ Nigeria High Commission Information on Nigeria. Online: <http://www.Nigeriahc.Org.Uk/History-People>

⁴⁸ The Encyclopaedia Britannica: ‘Ile-Ife’ Online: <http://www.Britannica.Com/Ebchecked/Topic/282720/Ile-Ife>

⁴⁹ The New World Encyclopaedia: ‘Leo Frobenius’ Online: http://www.Newworldencyclopedia.Org/Entry/Leo_Frobenius

⁵⁰ ‘A History of the World: Ife Head’ Online: <http://www.Bbc.Co.Uk/Ahistoryoftheworld/Objects/Z1cgmudytjwzptitw11aa>.

⁵¹ J. Illiffe., *Africans: The History of a Continent* (Cambridge University Press, 1995) p. 78

⁵² L. Robin., *The Oyo Empire c.1600-c.1836. A West African Imperialism in the Era of the Atlantic Slave Trade* (Clarendon Press, Oxford, 1977) p. 28

in Niger State, is said to have been founded in the 13th century.⁵³ The ruler of Ife was called Ooni while the ruler of Oyo was called the Alaafin.⁵⁴ The Alaafin⁵⁵ of Oyo ruled from the capital city of Oyo but allowed conquered kingdoms to rule themselves subject to annual tributes to him.⁵⁶ Falola and Genova noted that “[b]y the sixteenth century Oyo had become the most powerful empire in present-day southern Nigeria, controlling trade routes north to Hausa land.”⁵⁷ It is significant that the pre-colonial Oyo appears to have more political influence than the Ife province which we have earlier established to be the cradle of the Yoruba groups.⁵⁸ According to Lloyd, the power of the Oyo was derived largely from its control of the trade route from the savannah to the sea and its vast army.⁵⁹

The Oyo and the Ife continued to grow as independent kingdoms⁶⁰ alongside other Yoruba kingdoms such as Ijebu, Ijesa, and Ekiti.⁶¹ Regardless of their closely connected origins, the long years of separate existence of the Ife and the Oyo as independent kingdoms gave them varied and unique experiences. For example, while the Ife practiced traditional religion being “the source for connection to the ancient Yoruba religion...” and worshipping several hundreds of Gods every day of the year,⁶² the Oyo were mainly Muslims.

The narratives from the Ife and the Modakeke interviews conducted in 2014 demonstrate that both the Ife and the Modakeke practice both traditional religion, Islam and Christianity today with none of the groups claiming special ties to any one of the three religions. However, some Ife participants clearly noted that their pre-colonial religion was traditional and that Christianity and Islam were new to them. For example, an Ife female participant stated that: “formerly Ife has been known to have been worshipping series of idols before the advent of the

⁵³A. Oyewole & J. Lucas., *Historical Dictionary of Nigeria* (2nd edition. Africa Historical Dictionaries, no.40. The Scarecrow Press Inc. Lanham, Maryland and London, 2000) p. 426

⁵⁴See Figure 1 Above.

⁵⁵Alaafin is the title of the Oyo Kings

⁵⁶The New World Encyclopaedia: Oyo Empire. Online: http://www.newworldencyclopedia.org/entry/Oyo_Empire. Assessed 9 January, 2014

⁵⁷ T. Falola & A. Genova., *Yoruba Identity and Power Politics* (University of Rochester Press, 2006) p. 2

⁵⁸The letter of Sir Phillip Cunliffe-Lister Secretary of State for the Colonies concerning tenders for Ife Native Administration Water Scheme reveals that the Oyo Province acted on behalf of the Ife Native Administration inviting for Tenders for Ife Water Scheme. Government House Nigeria 15/03/1935. CO583/203/13 National Archive London. Government House Nigeria 15/03/1935.

⁵⁹P.C Lloyd., *The City of Ibadan* (Cambridge University Press, 1967) p. 11

⁶⁰Johnson noted that the Yoruba people were not organised as one “complete government.” S. Johnson., *The History of the Yoruba from the Earliest Times to the Beginning of the British Protectorate* (George Routledge & Sons, 1921) p. 40

⁶¹Crowns of other Yoruba rulers came from Ife; The Native Clark in Lagos once wrote a letter to the king (Ooni) of Ife seeking clarification on the full list of traditional rulers whose crowns originally derived from Ife. See letter in C. S. O 12/21/26 (1881/1902) NAI letters 18 April 1902.

⁶² J.K Olupona., *City of 201 Gods: Ile-Ife in Time, Space, and the Imagination* (University of California Press, 2011)

missionaries. The Ibos brought Christianity and Islamic religion.”⁶³ Another participant stated: “Ife practices traditional beliefs but there are some other religions like Christianity and Islam.”⁶⁴ Another Ife participant stated that: “Ife people were originally in Ife land but the Modakeke people come from some place so their origin is from a different place so they practice separate religion.”⁶⁵

The Modakeke on the other hand did not place any special emphasis on the Islamic religion as dominant in the Modakeke. A participant however noted that the Ife had some traditional festivals which are not practiced by the Modakeke. He stated:

*“... Generally, in Yoruba land some of the things are similar. However, there are some that are practiced at one place but not others. For example, there is one called ‘Edi’ practiced by the Ife’s. It is a type of tradition to do with women dancing around.”*⁶⁶

Although, the contemporary Ife and the Modakeke did not speak passionately of any religious preferences, historical records reveal that Islam grew from contact with Islamic areas through the activities of soldiers during wars, settlers migrating and through trade.⁶⁷ As a result Owu, a Yoruba town, had Muslims residents before its destruction in 1825⁶⁸ and so did Badagry⁶⁹ Thus, Islam was introduced into the Yorubaland before 1840.⁷⁰ As for the Oyo, the ruler or Alaafin had allowed some Arabs to stay in his palace and the Arabs spread their Muslim beliefs.⁷¹ It was reported that in Oyo there were “no less than five holy men, two or three of whom were Arab Emirs...spread the dogmas of their faith amongst the inhabitants, publicly teaching their children to read the Quran.”⁷²

Although The Alaafin of Oyo had allowed the Arabs to stay in his palace, he persecuted the Muslims and reports were that he killed as many corpses that could fit into the palace at any material time.⁷³ According to Gbadamosi, the “massacre terrified the Muslims, and made

⁶³ Ife interview IMMa11. Interview transcript is in a separate document.

⁶⁴ Ife interview IFA 2

⁶⁵ Ife Interview IFA2

⁶⁶ Modakeke Interview MMa 7

⁶⁷ T.G. O Gbadamosi., *The Growth of Islam Among the Yoruba 1841-1908* (Longman Group Ltd., 1978)

⁶⁸ S. O Biobaku., *The Egba and their Neighbours* (Oxford: Clarendon Press, 1957) p. 26

⁶⁹ R. Lander & J. Lander., *Journal of an Expedition to Explore the Course and Termination of the Niger etc.* (John Murray, 1932) p. 24-27

⁷⁰ R.C Abraham., *A Dictionary of Modern Yoruba* (Hodder and Stoughton. 1976) p. 307

⁷¹ S. Johnson., *The History of the Yoruba from the Earliest Times to the Beginning of the British Protectorate* (George Routledge & Sons, 1921) p. 164

⁷² R. Lander., *Records of Captain Clapperton’s Last Expedition to Africa* (vol. 1 London: Cass, 1967) p. 279

⁷³ R. Lander., (1967) *Ibid.* p. 277-279

them bitter against the entire traditional system.”⁷⁴ The Muslims were persecuted in all other Yoruba lands except in Ilorin. Then in the second phase of Islam in Yorubaland they fled to other places to take refuge such as Ife, Ibadan, Abeokuta and took with them their religion.⁷⁵ Therefore, as rightly pointed out by Fadipe, even if the Oyo and the Ife “were originally closely related ethnically and culturally, a separation of between one thousand and two thousand years would involve a resultant divergence of experience and traditions.”⁷⁶

The divergent experiences and traditions led to their conflict beginning in the late 18th century when fate brought them together under one government. Historical records reveal that the ancient Oyo⁷⁷ kingdom fell in the 18th century due to economic, military and mainly political decline.⁷⁸ Later most of the Oyo conquered cities rebelled, declared their independence and the Oyo empire eventually collapsed by the end of the eighteenth century.⁷⁹ The strife in Oyo and its eventual collapse led refugees to flock into neighbouring towns such as the Ife.⁸⁰ As a result, a group of refugees from the fallen Oyo kingdom went to settle in other Yoruba towns.⁸¹ Migrating in large groups,⁸² some conquered cities and formed new settlements such as the Ibadan⁸³, while others were absorbed into already established towns such as Ile-Ife and Odunabon.⁸⁴ Some formed their own cities such as Ijaye and Eruwa, while others such as displaced existing villages such as the allied army that displaced Egba village to form the Ibadan.⁸⁵

⁷⁴ T.G.O Gbadamosi., *The Growth of Islam among the Yoruba 1841-1908* (Longman Group Ltd., 1978)

⁷⁵ T.G.O Gbadamosi., (1978) Ibid.

⁷⁶ N.A Fadipe., *The Sociology of The Yoruba* (Ibadan University Press, 1970) p. 36

⁷⁷ There is a new Oyo government in Nigeria formed after the fall of the Old Empire. According to Robin, the modern Oyo State capital in Nigeria was not on the foundation of the Old Oyo Empire neither is the power of modern-day Oyo the same as the ancient Oyo empire as the modern Oyo is a mere shadow of the ancient kingdom. See L. Robin., *The Oyo Empire c.1600-c.1836: A West African Imperialism in the Era of the Atlantic Slave Trade* (Clarendon Press: Oxford, 1977) p. 3

⁷⁸ R.C Law., *The Oyo Empire c.1600-c.1836* (Oxford Clarendon Press, 1977) p. 278-299

⁷⁹ J.A Atanda., ‘The Fall of Old Oyo Empire: A Reconsideration of its Causes’ *Journal of Historical Society of Nigeria* vol. 4., 1977 p. 477-489

⁸⁰ O. Olutobi & A. Oyeniyi., *Modakeke from Grass to Grace* (Olutobi Ventures Osun State Nigeria, 1994) p. 2

⁸¹ J.O Toriola., ‘The Ife/Modakeke Crisis an Insider View’ *Ife Psychologia. An International Journal* vol. 9. no.3., 2001

⁸² G.O Oguntomisin., ‘Political Change and Adaptation in Yorubaland in the Nineteenth Century’ *The Canadian Journal of African Studies. Taylor and Francis Ltd on behalf of The Canadian Association of African Studies* vol. 15 no. 2. p. 223-237 [225]

⁸³ Ibadan was created as a war camp for warriors coming from Oyo, Ife and Ijebu in 1829 by reorganising the settlement of the then existing Egba group in the land. On the Ibadan history see works of S.B.C Olawale., ‘Ibadan Slaves and Ibadan Wars in Pre-colonial South Western Nigeria 1835-1893’ *Journal of Humanitarian and Social Sciences* vol. 7 Issues 3. p. 32-38 [33]; T. Falola & G.O Oguntomisin., *Yoruba Warlords of the Nineteenth Century* (Africa World Press, Inc, 2001) p. 205

⁸⁴ O. Olutobi & A. Oyeniyi., *Modakeke from Grass to Grace* (Olutobi Ventures Osun State Nigeria, 1994) p. 2

⁸⁵ P.C Lloyd., *The City of Ibadan* (Cambridge University Press, 1967) p. 3

The Ife provided refuge to the Oyo migrants while the migrants provided help in farming and fishing and also military service to their host.⁸⁶ The native/indigene-settler relationship was then formed between the Ife and the Oyo migrants. Both groups lived peacefully together until the first violent confrontations between 1835 and 1849.

3.2.3 The Causes of the Pre-colonial Ife-Modakeke Conflict

As stated in the background to the study in chapter one, there was only one recorded violent conflict between the Ife and the Modakeke which took place in 1835 when the Ife turned against the Oyo migrants as a consequence of their relationship with the new conquerors of Ibadan. The Ife claimed that the refugees became arrogant and unruly slaves.⁸⁷ According to Johnson, this led to the Ife's change of attitude toward their refugees, treating them from then on as "slaves and dogs."⁸⁸

Responses from contemporary Ife and Modakeke people also reveal the stated causes of the pre-colonial Ife-Modakeke conflict. A major factor that led to the foundation of the pre-colonial conflict, as borne out from the oral interviews conducted among both the Ife and the Modakeke, was the cultural cleavages reflected in the indigene/settler relationship between the two groups. Although Ile-Ife is said to be the cradle of all Yoruba, the Ife viewed the initial residents of Ibadan as brothers but the Oyo migrants who conquered Ibadan and the Oyo living with them as strangers. The Ife considered themselves the landlords of the Modakeke and viewed the Modakeke as strangers. As can be seen from the statements of the Ife during the 2014 interviews in Ife. Some participants stated: "They (Modakeke) are strangers, they met Ife here. The Ife people gave them their land."⁸⁹ "Before the Whiteman came, we were all living peacefully. We had our king called Ooni, and then the Modakeke came as refugees to our land to help us farm our lands as strangers"⁹⁰ An elderly Ife participant bluntly stated: "Modakeke are strangers to Ife."⁹¹

Even the Modakeke did not dispute the fact that they are strangers in Ile-Ife. In fact, contemporary Modakeke still refer to themselves as refugees in Ife and see the Ife as their

⁸⁶ J.F A Ajayi & S.A Akintoye., *Yorubaland in the Nineteenth Century* in O. Ikime *Groundwork of Nigerian History* (HEBN Publishers Ibadan, Nigeria, 1980) p. 286; I.A Akinjogbin., *War and Peace in Yorubaland 1793-1893* (Heinemann Educational Books, Nigeria, 1998) p. 14

⁸⁷ J.F A Ajayi & S.A Akintoye., (1980) *Ibid.* p. 286

⁸⁸ S. Johnson., *The History of the Yoruba from the Earliest Times to the Beginning of the British Protectorate* (George Routledge & Sons Ltd ,1921) p. 190

⁸⁹ Ife interview IMA 1

⁹⁰ Ife Interview IFA55

⁹¹ Ife Interview IFA49

landlords. While narrating the history of the Modakeke in pre-colonial times, a Modakeke participant stated that “we recognize the Ife as the father of all Yoruba groups. We came as refugees to the Ife after old Oyo was destroyed. Then the Ife needed us to farm their lands as they are very lazy people. Later they started treating the Modakeke badly and the Modakeke fought them. Ibadan helped Modakeke to sack Ife three times.”⁹²

Another stated: “We the Modakeke came into Ife long time ago. They gave us land free to farm on, and then we helped them to fight the Ibadan. But later they became greedy and wanted more from us calling us their slaves. Our fathers could not take it anymore so we start to fight them saying we are freeborn from Oyo not slaves.”⁹³ One Modakeke participant however referred to the Modakeke as Ife neighbours rather than strangers or refugees. She stated that “war made us run to Ife for shelter as neighbours but then they started treating us badly as if we were their slaves.”⁹⁴

The responses above demonstrate that both groups recognized the dividing line between the groups that of the indigene/settler relationship and the effect it had on starting the conflict and preserving it. Resolution attempts in this first crisis period was by physical separation, which was initiated by the traditional ruler of Ife, Oba Abewaila. He separated the refugees from the Ife main town, giving them a separate tract of land in Ife which was later named Modakeke (after the cry of a bird).⁹⁵ The Modakeke, as they came to be known, appointed for themselves a king, the Ogunsua of Modakeke⁹⁶ thus creating a new identity for themselves free from the Ife. Therefore, the Modakeke although initially living with their host community Ife, “...did not fully integrate with those already living in Ile-Ife...”⁹⁷ Thus, they began their separate existence from the Ife.

The question is, to what extent did the social, economic and political structure of the Ife and the Modakeke affect the conflict and dispute resolution attempts in pre-colonial times? The

⁹² Modakeke Interview MMa33

⁹³ Modakeke interview MFA21

⁹⁴ Modakeke interview MFMa 37

⁹⁵ I.O Albert., *Ife-Modakeke Crisis* in O. Otite & I.O Albert., *Communal Conflicts in Nigeria: Management, Resolution and Transformation*. (Spectrum Books Ltd., 1999) p. 145

⁹⁶ In the Modakeke Resolution from the meeting at the Modakeke ruler (Baale) residence in September 1947, the Modakeke asserted firmly that the Baale of Modakeke is the head chief and accredited representative of the Modakeke people. See. Ife Div./2 File No. 459. Ibadan National Archive.

⁹⁷ T. Falola & A. Genova., *Historical Dictionary of Nigeria. Historical Dictionaries of Africa No: 111* (The Scarecrow Press Inc. U.K, 2009) p. 232

section below examines the social, economic and political structure of the Ife and the Modakeke and the idea of separation as a method of dispute resolution.

3.3 The Social Structure of the Ife and the Modakeke as Part of the Yoruba Group

To establish that the social structure of the Ife and the Modakeke as part of the Yoruba did not encourage separation as a useful method of conflict prevention and management in pre-colonial times, the analysis under this sub-heading will identify two major Yoruba social structures that made physical separation unsuccessful for conflict prevention and resolution namely; kinship and land tenure system.

3.3.1 Kinship

Anthropologists have long studied ancient societies and observed that some societies depend on each other to stay alive. For example, the !kung bushmen need each other to survive, thus will not separate in times of conflict as a measure to avoid more conflict or resolve existing ones.⁹⁸ However, among the Plateau Tonga people of the former Northern Rhodesia, Colson noted that quarrels often led to movement.⁹⁹ Like the !Kung, others having such need for physical dependency, have very strong kinship ties that makes separation impractical for dispute resolution. For example, the Minj-wahgi of Western High lands of New Guinea have such strong social ties that rather than separate during conflict, groups place their arms behind their backs, kicking at each other's backs until one group withdraws.¹⁰⁰ Also, there are records of the buffeting contests of some Eskimos where both groups deliver blows to each other's heads until one is knocked to the ground and withdraws.¹⁰¹

From the foregoing, the question is: did the pre-colonial social structure of the Ife and the Modakeke allow strong kinship ties that encourages or discourages separation or any other model that encourages separation during times of conflict? A careful analysis of the kinship structure of the Yoruba appears to suggest that *within* each group, kinship ties were strong. And further, although ties *between* major groups were strong, separation was successful in the long-term as a means of dispute resolution of the pre-colonial Ife-Modakeke conflict because kinship ties were not strong enough to include all Yorubaland in pre-colonial times.

⁹⁸ S. Roberts., *Order and Dispute: An Introduction to Legal Anthropology* (Penguin Books, 1979)

⁹⁹ E. Colson., *The Plateau Tonga of Northern Rhodesia Social and Religious Studies* (Manchester University Press, 1962) p. 199

¹⁰⁰ S. Roberts., (1979) p. 58

¹⁰¹ S. Roberts., (1979) Op Cit. p. 58

This view appears to be supported in leading empirical works on the Yoruba people such as Bascom and Fadipe who acknowledged within each Yoruba sub-group the pre-colonial Yoruba had kinship ties and the principle of seniority. According to Bascom, the patrilocal dwelling, which is the compound, comprised of the children of the house (idile) the wives of the house (iya ile) and unrelated outsiders (alejo).¹⁰² The three types of kinship Bascom referred to were the blood kinship, kinship by marriage and secondary kinship that exists outside blood and marriage but by the choice of the parties.¹⁰³ These three types of kinship did not include outsiders of a separate group that did not get assimilated into a group. As earlier argued by writers such as Agbiboa, there was nothing like a Yoruba group in ancient Nigerian history that lived completely autonomous lives and knew the various communities as autonomous areas.¹⁰⁴ In fact, he claimed in agreement with other writers that even ancient Yoruba language similarities were mutually unintelligible.¹⁰⁵ In addition, Akinjogbin had stressed that the historical consciousness of an average Yoruba is restricted to his sub-cultural group and not the whole of Yorubaland.¹⁰⁶ It follows that the Ife and the Modakeke lacked such kinship ties as to foster the type of relationship that exists amongst members of a kin. As described by Fadipe: “[t]he pragmatic value of the kinship principle lies in the co-operation, mutual help, loyalty and other expressions of solidarity which it evokes in those whom it joins together.”¹⁰⁷ As can be seen from the trigger to the pre-colonial conflict between the Ife and the Modakeke, the Ife did not view the Modakeke as part of their kin but as strangers in their land.¹⁰⁸ Answers given by contemporary Ife and Modakeke to the question “are the Ife and the Modakeke the same peoples?”, help to corroborate the lack of kinship ties between the Ife and the Modakeke. Several participants of the interviews conducted in 2014 by this researcher noted that the Ife and the Modakeke are different peoples even referring to themselves as strangers. These are some of their comments:

Ife participant: “No. Modakeke are strangers. They even say it themselves”¹⁰⁹

¹⁰² W. Bascom., ‘The Principle of Seniority in the Social Structure of the Yoruba’ *American Anthropologist*. Willey on behalf of the American Anthropological Association, New Series vol. 44. no.1, 1942. p. 37-46[37]. p. 37

¹⁰³ N.A Fadipe., *The Sociology of the Yoruba* (Ibadan University Press, 1970) p. 119

¹⁰⁴ D.E Agbiboa., ‘Ethno-Religious Conflicts and the Elusive Quest for National Identity in Nigeria’ *Journal of Black Studies* vol. 44 no. 1 p. 3-30 [10-13]

¹⁰⁵ D.E Agbiboa., (2013) *Ibid*. p. 13

¹⁰⁶ A. Akinjogbin., *War and Peace in Yoruba Land 1793-1893* (Heinemann Educational Books, Nigeria, 1998) p. 16

¹⁰⁷ N.A Fadipe., *The Sociology of the Yoruba* (Ibadan University Press, 1970) p. 128

¹⁰⁸ It is noted that both groups had intermarried over the years but they still feel strongly about their separate origin.

¹⁰⁹ Ife interview IFA 53

Ife participant: “Ife is the landlord while Modakeke are strangers”¹¹⁰

Modakeke participant: “No. We are from Oyo given land by the Ife people a long time ago”¹¹¹

Although the majority said the Ife and the Modakeke are not the same people, a very small proportion of the Ife participants (4 out of 50) said that the Modakeke and the Ife are from the same place thus are seen as the same people.¹¹²

Closely related to kinship ties is the Yoruba custom of seniority. Bascom noted that kinship recognises seniority in Yorubaland. Since kinship meant seniority, it is expected that submitting of a dispute for mediation will be due to respect for the seniority of the eldest male member of the house. According to Fadipe seniority “guarantees obedience to authority which reinforces the concept of leadership.”¹¹³ Therefore the decision of the Ooni of Ife to separate the Oyo migrants in a different settlement was in his prerogative as a senior spokesman in the land and was binding on the people as long as he lived.

The social hierarchy created by Yorubaland tenure system also served to demonstrate that physical separation was not feasible for resolving conflict in pre-colonial times.

3.3.2 Land Tenure

Under English law three relationships can exist where land is involved. The landlord-tenant relationship can be created where ground rent is paid for the periodical use of the land.¹¹⁴ When the land and the buildings are used, the payment for such land use becomes the rack rent which reflects the full periodic value of land.¹¹⁵ There is also the payment of rent charge. This does not create a landlord-tenant relationship. Rather it is the sum of money secured on land owned by the person paying the rent charge thus earmarking the land as security for a loan without actually passing any estate.¹¹⁶ For the Yoruba of Nigeria, there is no clear English equivalent to the relationship created under customary land tenure system because there is a

¹¹⁰ Ife Interview IFMa 18

¹¹¹ Modakeke Interview MFA13

¹¹² An Ife participant stated that “They are from the same place. Ife is where the Yoruba started before they all departed, so Modakeke is from Ife before they all spread.” IFMa 38

¹¹³ N.A Fadipe., (1970) Ibid. p. 128

¹¹⁴ P. Sparkes., *A New Land Law* (Hart Publishing, 1999) p. 401

¹¹⁵ P. Sparkes., (1999) Ibid. p. 401

¹¹⁶ P. Sparkes., (1999) Op Cit. p. 476

tribute payable for use of land in recognition of overlordship and there is a payment for use of land called Ishakole.

Samuel Johnson's¹¹⁷ history of the Yoruba is one of the earliest systematic recordings of the Yoruba people and the Ife conflicts and wars. His work shows that the norms of the Yoruba regarding land and the position of strangers in a group, was pre-modern and caused conflict between the groups. For example, the structure of land tenure created hierarchy among groups and thus served to divide rather than bring the groups together. If the sociology of group conflict is anything to go by two groups with different status positions will always be in conflict because the superior group wants to maintain their status while the inferior group seeks liberation from an inferior position.¹¹⁸ Therefore, the pre-colonial structure of land tenure system would have been a source of division and conflict, and not one of conflict prevention.

The Yoruba land tenure system was communal in that the community controlled the land use. Lloyd in his discussion of the two major descent groups in Yoruba, the Agnatic and the Cognatic, noted that they both have a relationship to Yoruba land tenure and dispute resolution. Lloyd noted that members of the Agnatic group "corporately hold rights to both the town land on which their compound is built and to one or more large blocks of farm land"¹¹⁹ In the Cognatic descents land is vested in the village not on the descent.¹²⁰

Fadipe also wrote on the indigene-settler relationship of groups in Nigeria created by the pre-colonial social structure of the Yoruba land tenure system in Nigeria.¹²¹ According to Fadipe, a native and a settler were identified by their rights over land. Thus, the settler only had rights of use of a native's land temporarily at the native's permission guaranteed by the payment of a token called Ishakole as a reminder of the native's overlordship.¹²² This created a landlord-tenant relationship between the native and the stranger/settler. Refusal to pay the Ishakole is taken as intention to claim absolute ownership of the land granted temporarily. Therefore, the Yoruba land tenure system where the Ife are the landlords and the Modakeke the tenants made

¹¹⁷S. Johnson., *The History of the Yoruba from the Earliest Times to the Beginning of the British Protectorate* (George Routledge & Sons)

¹¹⁸J.C Turner., *Social Categorization and Social Comparison in Intergroup Relations* (Unpublished PhD Thesis University of Bristol, 1975 in S. Aharpour., *Social Identity Theory and Group Diversity: An Analysis of Functions of Group Diversity* (University of Kent Canterbury, 1999)

¹¹⁹P.C Lloyd., 'Agnatic and Cognatic Descent Among the Yoruba' *Man. New Series Royal Anthropological Institute of Great Britain and Ireland* vol. 1 no. 4., 1966 p. 484-500[489].

¹²⁰P.C Lloyd., (1966) *Ibid.* p. 493-498

¹²¹N.A Fadipe., *The Sociology of the Yoruba* (Ibadan University Press, 1970) p. 169-178

¹²²N.A Fadipe., *Ibid.* p.169-178

the Ife higher in rank to the Modakeke who are seen as strangers. There is no known refusal of the Modakeke to pay the *Ishakole* in pre-colonial times, obviously because they recognised themselves as strangers and needed to pay the *Ishakole*. The status Modakeke acquired when they were physically separated from the Ife and the effect it had on the payment of the *Ishakole* is worth considering.

The landlord-tenant relationship was not a new arrangement with the coming of the refugees in Ife.¹²³ Ajasin explained that it was customary to give a “stranger-farmer” land to farm on but the farmer could not be the absolute owner of such a land, he could be ejected if he breached the conditions of use such as breaking the laws of the land on moral and criminal grounds.¹²⁴ Johnson also noted that:

*“[l]and are never sold but may be granted to outsiders for life...Land once given is never taken back except under special circumstances as treason to the State which renders the grantee an outlaw, and he is driven altogether from the State or tribe, and his land confiscated.”*¹²⁵

Strangers pay rent to compensate for the land of members of the communities who consider that they are depriving themselves of their sources of profits, thus deserving of compensation for their economic deprivation.¹²⁶ The rent *Ishakole* was in the form of a certain percentage of their agricultural produce.¹²⁷ In addition, it is worth noting that lease of land to a stranger/settler was under the condition that the stranger/settler must accept the jurisdiction of the recognised authorities of the land and identify themselves with the rest of the community.¹²⁸ With such a condition placed on the use of land by strangers, physical separation of the strangers would have breached the Yoruba criterion for land use because the Modakeke would no longer be identifying themselves with the rest of the Ife community. Further, the land they were settled in by the Ooni in pre-colonial times was cleared by the Modakeke and thus must have conferred the right of ownership on the Modakeke as the

¹²³Lloyd described in detail the long-standing land-lord tenant relationship in Ancient Yoruba Land. See P.C Lloyd., *Yoruba Land Law* (Oxford University Press, 1962)

¹²⁴A.K Ajisafe., *The Laws and Customs of the Yoruba People* (London George Routledge & Sons) p. 11

¹²⁵S. Johnson., *The History of the Yoruba from the Earliest Times to the Beginning of the British Protectorate* (George Routledge, 1921) p.95

¹²⁶P.C Lloyd., *Yoruba Land Law* (Oxford University Press, 1962) p. 64

¹²⁷J.O Toriola., ‘The Ife/Modakeke Crisis an Insider View’ *Ife Psychologia. An International Journal*, vol. 9 no.3., 2001, p. 24-25

¹²⁸N.A Fadipe., *The Sociology of the Yoruba* (Ibadan University Press, 1970) p.169

Yoruba have “always looked upon the expenditure of effort upon an object as conferring the right of ownership on that object.”¹²⁹

From the above discussion, it is evident that the Yoruba land tenure system created a hierarchy between the natives and the settlers where no adult native “who has need of land goes without it” but for the stranger/settler they had to lease land under the condition of identifying themselves with the community and payment of lease sum *Ishakole*. With such a system, physical, economic and political separation was not practical as a dispute resolution mechanism because the land remained the property of the natives and was tied to the political identity of the natives and settlers.

3.4 The Economic Structure of the Pre-colonial Ife and the Modakeke

In line with the anthropological theory of ethnic conflict between groups, the theoretical framework in chapter one of this study demonstrated that some armed conflicts are caused by competition over resources.¹³⁰ In this context, a consideration of the economic structure of the pre-colonial Ife and the Modakeke is essential for an understanding of the effect on the economy when separation is employed as dispute resolution in pre-colonial times. This thesis argues that the economic structure of the Ife and the Modakeke in pre-colonial times acted as a trigger to the first conflict and made physical separation a difficult and unsuccessful option for resolving the Ife-Modakeke conflict. Therefore, for any possibility of resolving the conflict through separation, the economic implication on the conflict must be considered and adequately addressed.

Africans were good at trading and long-distance trade was one way of meeting the economic needs of the society. Coquery-Vidrovitch and Lovejoy pointed out that long distance trade was attractive to the elite of those days because of the profit involved. As a result, they recruited men to work for the trade through kinship, slavery and attracting people who worked for wages.¹³¹ Because of the nature of long-distance trade, a tremendous amount of manpower was required. According to Coquery-Vidrovitch and Lovejoy the traditional social structure

¹²⁹N.A Fadipe., (1970) Ibid. p. 172

¹³⁰T.F Homer-Dixon., ‘Environmental Scarcity and Violent Conflict: Evidence from Cases’ *International Security* vol.19 no.1. MIT Press-MASSAC HUSSETTS Institute

¹³¹ C. Coquery-Vidrovitch & P.E Lovejoy., *The Workers of African Trade* (Sage Publications Inc, 1985) p. 13

based on kinship remained capable of offering manpower and necessary animals. According to Coquery-Vidrovitch and Lovejoy:

“...[t]he sons, nephews, and other dependents recruited for commercial journey on a regular basis by their elders, lineage heads, and chief merchants were certainly exploited...only a part of the surplus as well as the product went to these dependents.”¹³²

The above statements provide a reason why workers developed consciousness of the fact that they were being exploited, often resulting in strikes such as the 1753 strike of the canoe men who sailed goods, especially gold, from Ghana to the Europe as well as the 1887 Kongo strike of porters.¹³³

Generally, the economic survival of a group is adjusted to varying degrees to their environment and the indigenous economy is influenced by the suitable materials available to the people.¹³⁴ As for the Yoruba, to which the Ife and the Modakeke belonged, their location meant that they had open trade routes to the north across the Sahara and the sea through to Europe.¹³⁵ According to Lloyd, the Yoruba developed considerable power in pre-colonial times largely from control of the trade route from the savannah to the sea and its vast army.¹³⁶ The Yoruba environment in Nigeria favours farming, hunting, cloth making and fishing. Cross-bows and iron traps were used for hunting available animals such as giant rats, warthogs, bush-babies and large birds.¹³⁷ Hunting activities are higher during the dry season because it is the off-peak farming period. According to Afolabi Ojo, during this period, the forest land is thinner and grass is scorched thus making it more penetrable, longer sighting of animals is increased and it makes the burning of bushes by professional hunters possible.¹³⁸ The mangrove readily found in the Yorubaland also encouraged craft industries to flourish among the Yoruba because of the tropical rain forest rich in vegetation, species and density. The luxuriant variety of plants, especially woody plants, provide raw materials for craftsmanship in the Yoruba culture. “[w]ood carving flourished long ago among the

¹³² C. Coquery-Vidrovitch & P.E Lovejoy., (1985) Ibid. p. 15

¹³³ C. Coquery-Vidrovitch & P.E Lovejoy., (1985) Op cit. p.19

¹³⁴ B.B Omidiora., *Ile-Ife in the History of Yoruba Race* (Diamond Publications Ltd, Lagos Nigeria, 2010) p. 33

¹³⁵ T. Falola & A. Genova., *Yoruba Identity and Power Politics* (University of Rochester Press, 2006) p. 6

¹³⁶ P.C Lloyd., *The City of Ibadan* (Cambridge University Press, 1967) p. 11

¹³⁷ G.J Afolabi Ojo., *Yoruba Culture A Geographical Analysis* (Forward by S.O Biobaku University of Ife and University of London Press Ltd, 1966) p. 33

¹³⁸ G.J Afolabi Ojo., (1966) Ibid.

Yoruba.”¹³⁹ Dyeing of clothes resulting from the availability of dye from the Indigo fera tree was the job of almost every Yoruba woman.¹⁴⁰ As a result of the diverse economic possibilities of the Yoruba, households were self-sufficient. ¹⁴¹However, the need for plenty of manpower for farming and trading purposes meant that slave owning and the prospect of strangers depending on the indigenes for survival was welcomed by the Yoruba’s. Falola noted that:

“...those who had access to slaves, especially in large numbers, there was no need to rely on co-operative work groups with the reciprocity that it involved. Neither was it economical to make use of the labour of lineage for the simple reason that lineage did not tolerate exploitation.”¹⁴²

This problem of manpower reflects the adverse consequences of the Modakeke being separated from the Ife after the first violent conflict between the groups. Oluobi and Oyeniyi wrote that the Ife refugees were initially “living within the four walls of Ile-Ife” and consequently received a favourable welcome from the Ife kings such as, Akinmoyero (1770-1800) Gbanlare (1800-1823), Oba Wunmonije (1835-1839) and Oba Adegunle (1839-1849).¹⁴³ However, Ajayo and Akintoye claimed that the coming of the Oyo refugees into Ife was the major hope of Ife regaining economic stability after being driven from their homeland by war.¹⁴⁴ Most importantly, Asiyanbola¹⁴⁵ claimed that the Oyo refugees provided military support to the Ife host during the Owu war of 1825.¹⁴⁶ Thus when the Ife king separated the Modakeke from the Ife, there was peace for a while but according to Johnson, separation brought economic hardship on the host community, Ife having lost their slave farmers and warriors. This did not go down well with the Ife. Thus, they poisoned their king in 1846¹⁴⁷ and sought to bring the Modakeke back to Ife which led to further violence.

¹³⁹G.J Afolabi Ojo., (1966) Op cit.

¹⁴⁰G.J Afolabi Ojo., *Yoruba Culture A Geographical Analysis* (Forward by S.O Biobaku University of Ife and University of London Press Ltd, 1966) p. 85

¹⁴¹N.A Fadipe., *The Sociology of The Yoruba* (Ibadan University Press, 1970) p. 316

¹⁴²T. Falola., *Slavery and Pawnship in the Yoruba Economy of the Nineteenth Century*. in P.E Lovejoy & T. Falola., *Pawnship, Slavery and Colonialism in Africa* (Africa World Press, 2003) p. 109-135 [113]

¹⁴³O. Olutobi & A. Oyeniyi., *Modakeke from Grass to Grace* (Olutobi Ventures Osun State Nigeria, 1994) p. 2

¹⁴⁴J.F.A Ajayi & S.A Akintoye., *Yoruba Land in the Nineteenth Century* in O. Ikime (ed) *Groundwork of Nigerian History* (HEBN Publishers Ibadan, Nigeria, 1980). p. 286

¹⁴⁵A.R Asiyanbola., ‘Urban-Ethno Communal Conflict in Africa: Nigeria’ A Paper Submitted for Presentation at the Union of African Population Studies (UAPS) Fifth African Population Conference, Arusha Tanzania 10-14 December. p. 8

¹⁴⁶The Owu War was the war between regions owing allegiance to old Oyo which started 1810. See D. Eltis., ‘Welfare Trends Among the Yoruba in the Early Nineteenth Century: The Anthropometric Evidence’ *The Journal of Economic History* vol. 1 no. 3, 1990 p. 521-540[537]

¹⁴⁷S. Johnson., *The History of the Yoruba from the Earliest Times to the Beginning of the British Protectorate* (George Routledge and Sons Ltd, 1921) p. 723

The economic structure that relied upon manpower for farming, fishing and trade meant that separation of the conflicting groups was not successful in resolving the pre-colonial Ife-Modakeke conflict. If the Ife had not been economically reliant on the Modakeke refugees in pre-colonial times and the Modakeke reliant on the Ife land for survival, physical separation would have been the best resolution. The Modakeke, although happy for the refuge provided for them among the Ife, did not like the fact that they had to fend for the Ifes. As related by a Modakeke participant in the 2014 interview:

“[o]ur neighbours are not always at peace with us, they rate us as second-class citizens. We are very hard-working farmers but our neighbours the Ifes are lazy. They demand money from us as their slaves. Modakeke people are hardworking, we have farmlands although given to us by the Ife but we cultivate them. We cultivate cocoa, kolanut. But our other counterparts who gave the land to us are lazy dogs, drinking palm wine and at the end of the day when they see us performing, they will be demanding money that we are their slaves and that we have to feed them. That is one of the major reasons that cause the conflict.”¹⁴⁸

An Ife participant on the other hand claim that:

“The Ife people are the original Yoruba people. They were very accommodating to strangers. When the people of Modakeke who were travellers came they were treated very kindly, giving land to stay. But they were ungrateful and started to cause trouble. After some time, they refused to pay the Ishakole (dues to the Ife king).”¹⁴⁹

From the foregoing, the economic structure of the Ife and the Modakeke did not allow for the use of physical separation of the groups in pre-colonial times without hurting the economy of one of the groups. One could speculate that if the economic situation was one that allowed the Modakeke refugees virgin land for economic purposes without reliance on the Ife, separation would not have produced the negative effect on the conflict as it did in pre-colonial times.

In view of the foregoing the sub-heading hereunder analyses the political structure of pre-colonial Ife and Modakeke vis-a-vis- its relationship to the separation as a dispute resolution. The purpose of the analysis is to demonstrate that the Yoruba political structure made

¹⁴⁸ Modakeke Interview MMA8

¹⁴⁹ Ife Interview IFA33

separation difficult as a dispute resolution method therefore resolving the conflict by separation involves separating the Yoruba norms from the conflict and dispute resolution.

3.5 The Political Structure of Pre-colonial Ife and the Modakeke

In this section, the thesis argues that the political structure of the Ife and the Modakeke, as part of the broader Yoruba group, made separation possible but a difficult option for managing and preventing further conflict in pre-colonial Ife and Modakeke. The structure recognised main governments and subordinate governments as well as empowering the kings to resolve disputes. Also, due to the difference of the political structure of the Oyo from other Yoruba political structures, as well as the various checks and balances on the king, the resolution by separation brought about by the Ife king (Ooni) was short-lived as the people asserted their sense of justice and sought to bring back the Modakeke to the Ife.

The failure of the pre-colonial attempt at resolving the Ife-Modakeke conflict is in line with the sociology of group conflict, which suggests that ethnic breakdown leading to extreme harm being done to victims is a result of people's perception of justice. According to Esses and Vernon, when people perceive that their security (whether economic or political status) is threatened, they think justice demands that they protect it and the principle of deservingness always takes root.¹⁵⁰ Also Zartman noted that the causes of group conflicts include a peoples' perception of a weak State which leads individuals to seek to defend themselves and their territory.¹⁵¹ As evidenced below by the views of sociologists, the pre-colonial structure of the Ife and the Modakeke were implicated in the result of the pre-colonial attempts at resolving the Ife-Modakeke conflict.

3.5.1 Pre-colonial State Capitals and Subordinate Towns

The general political development of the Yoruba in pre-colonial times was that of states and mini states with some states succeeding while others did not.¹⁵² A typical Yoruba state comprised the capital, towns and villages.¹⁵³ As Atanda indicated:

¹⁵⁰ V.M Esses & R.A Vernon., *Explaining the Breakdown of Ethnic Relations Why Neighbours Kill* (Blackwell Publishing, 2008) p. 19

¹⁵¹ I.W Zartman., *Collapsed States: The Disintegration and Restoration of Legitimate Authority* (Boulder, Colo. Lynne. Rienner Publishers, 1995) p. 1-11

¹⁵² J.S Eades., *The Yoruba Today* (Cambridge University Press, 1980) p. 18

¹⁵³ N.A Fadipe., *The Sociology of the Yoruba* (Ibadan University Press, 1970) p. 200

*“the key political unit on which government was based in all the Yoruba kingdoms was the town, ilu. Each kingdom consisted of many towns, but this did not mean that there were many independent governments in each kingdom the government of the capital served as the central government of the kingdoms, while those of the subordinate towns served as Local Government units.”*¹⁵⁴

The government in the town was headed by the king (Oba or Ooni in Ife) and kept in check by the council of chiefs the Igbimo, (known as Oyo mesi in Oyo and Iwarefa in Ife) whom he had to consult. The subordinate governments were headed by a Baale (father of the land).¹⁵⁵In contrast to the general Yoruba political structure, Fadipe noted that the Oyo-Yoruba subordinate groups such as Ibadan and Ogbomosho while under obligation to render annual tributes to the Alaafin (ruler of the main town) of Oyo “left them more or less in unrestricted control of their own affairs”¹⁵⁶ and practically independent. Fadipe further noted that: “[t]here was no chief in the capital who was responsible for the communities outside the capital...it was only chiefly in regard to the conduct of external affairs as well as in the collection of revenue...”¹⁵⁷ Also, the Alaafin¹⁵⁸ of Oyo ruled from the capital city of Oyo but allowed conquered kingdoms to rule themselves subject to annual tributes to him.¹⁵⁹ Oguntomisin noted that:“...a great number of these refugees did not migrate as individuals but as large groups carrying with them their corporate identities as towns.”¹⁶⁰

This different system of towns being independent in the Oyo and retaining their identities must have given the Modakeke, who had originated from the fallen Oyo, a different perception of their sovereign role when separated from the Ife.

Strictly speaking, it could be argued that under the general Yoruba political structure which the Ife were familiar with, governments under a Baale were subordinate to the main government headed by an Oba and thus could not claim to be an independent government. It follows therefore, that although separated from the Ife physically, the Modakeke in pre-colonial times were not, according to the general Yoruba political structure, deemed to be a

¹⁵⁴ J.A Atanda., *An Introduction to Yoruba History* (Ibadan University Press, 1980) p. 19

¹⁵⁵ J.A Atanda., (1980) Ibid. p. 19

¹⁵⁶ N.A Fadipe., (1970) Ibid. p. 199

¹⁵⁷ N.A Fadipe., (1970) Op cit. p. 200

¹⁵⁸ Alaafin is the title of the Oyo Kings

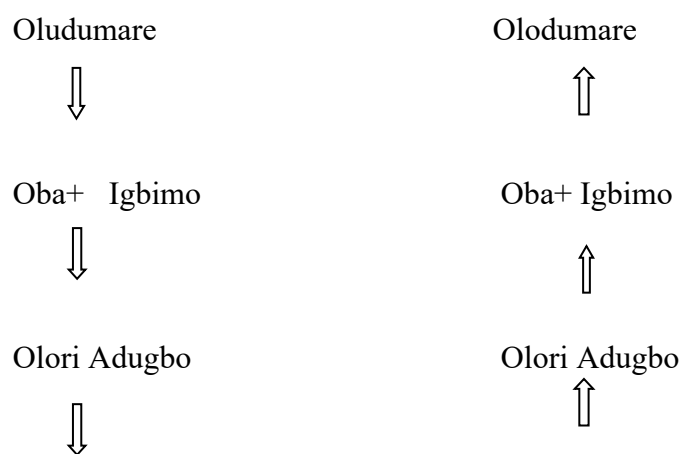
¹⁵⁹The New World Encyclopaedia: Oyo Empire. Online: http://www.newworldencyclopedia.org/Entry/Oyo_Empire. Assessed 9 January, 2014

¹⁶⁰G.O Oguntomisin., ‘Political Change and Adaptation in Yorubaland in the Nineteenth Century’ *The Canadian Journal of African Studies* Taylor and Francis Ltd on behalf of The Canadian Association of African Studies vol. 15 no. 2, 198,1 p.223-237[225]

separate government. This can be seen to be consistent with the Ife understanding that the separation of the Modakeke to a settlement outskirts of Ife as described under the causes of the pre-colonial conflict, was not a grant of self-determination or self-rule but a mere subordinate government created in terms of a quarter in Ife and therefore to be referred to as Modakeke-Ife.¹⁶¹ However, the separate political structure the Modakeke were exposed to by virtue of their Oyo origin meant that although separating the groups was possible in pre-colonial times, its success was not a permanent solution to the problem. The Yoruba political structure did not allow for the Modakeke to be its own independent government with equal political status as the Ife because the Modakeke were settled in a part of the Ife land as a subordinate town in Ife. Another illustrative example of the effect of the Yoruba political structure on the success of separating the groups is the powers of the king in political and judicial matters described below.

3.5.2 The Power of the King

The Yoruba political system is fused with their judicial system and recognises the king as having the powers of life and death as he rules with the gods.¹⁶² Therefore, the king was the final court of appeal for the whole kingdom. A close consideration of the two systems reveals that the hierarchy of the political system represents the same for the judicial system. Thus, disputes were resolved traditionally by negotiation, mediation or traditional adjudication right from the lowest level of authority ending with the highest government of the king and those who acted as checks of the kings' actions. The Yoruba political and judicial system can be represented this way: ¹⁶³



¹⁶¹B.B Omidiora., *Ile-Ife in the Hierarchy of Yoruba Race* (Diamond Publications Ltd, Lagos, 2010) p. 51

¹⁶² J.A Atanda., *An Introduction to Yoruba History* (Ibadan University Press, 1980) p. 19

¹⁶³ Figure 2 And 3 Has Been Specially Adapted from the Work of T. Onadeko., 'Yoruba Traditional Adjudicatory Systems' *African Study Monographs* vol. 29. no 1., 2008, p.15-28 [21]

Olori Ebi
↓
Baba

Olori Ebi
↑
Baba

Key:

Baba	Father (head of family)
Olori Ebi-	Head of Compound
Olori Adugbo	Head of a Ward
Oba	King
Igbimo	Council of Chiefs
Olodumare	Supreme Being

Figure 2 Figure (with key) Representing the Relationship Between Yoruba Political and Judicial Structures (from T. Onadeko)

The figures above clearly describe in the simplest of terms the Yoruba political and judicial structure. This structure represents that which is practiced by the Ife-Modakeke too. The inversion of the political structure is the exact adjudication as practiced by the Yoruba with very slight differences in some Yoruba groups.¹⁶⁴

Fadipe has rightly noted that:

“...the administration of public justice [in Yoruba land] may be said to begin at home (according to the nature of the case and the relationship of the parties involved) and to end with the highest State authorities as the highest tribunal as well as the highest court of appeal.”¹⁶⁵

In line with the above statement, the political structure of the Yoruba starts with the gods represented by deities and ancestors called Imala and Osi respectively. The Yoruba fear the wrath of the gods thus they will maintain order provided the gods are called into question. For conflict resolution purposes, even though the gods are the highest political powers, they are the last resort for problems that cannot be resolved. Although, the modern-day Yoruba, still fear the gods, it is noted that they are now in the habit of breaking oaths, especially peace oaths, taken in the name of the gods.¹⁶⁶ However, the respect they have for their kings, as

¹⁶⁴ For example, the Ife King is Ooni while the ruler of the Modakeke community subject to the Ooni is the Ogunsua of Modakeke

¹⁶⁵ N.A Fadipe., *The Sociology of the Yoruba* (Ibadan University Press, 1970) p. 224

¹⁶⁶ See Statement of An Interviewee in Interview M 15

revealed by how fondly they speak of the rulers¹⁶⁷ still stems from the fact that they see their kings as representatives of the gods thus deserving of absolute obedience.

Below the gods is the King (Oba)¹⁶⁸ who was the king as most Yoruba sub-groups had a King.¹⁶⁹ The king was installed by statesmen who were empowered to select and install a king and curb the excesses of his office.¹⁷⁰ While the policy-making part of government was carried out by those having political power such as the Oba, the administrative aspect of government is carried out by chiefs low in hierarchy.¹⁷¹ The monarchical system appears to be a common feature of the Yoruba government, where the king was the highest level of authority. In Ile-Ife, there are four ruling houses, Lafogido, Ogboru, Giesi and Oshhikola.¹⁷² The four houses are all descendants of the first divinely appointed king of Ile-Ife, Oduduwa. Academic literature also demonstrates the power wielded by pre-colonial rulers of the Yoruba groups. Lloyd noted that there was no judiciary independent of the administration of the king and his chiefs.¹⁷³ Describing the powers of rulers of the ancient Yoruba empire of Oyo, the new world encyclopaedia stated:

“Regarding the judicial function of the Oyo Empire, the Alaafin acted as the Supreme Judge and only heard cases after dispute were first ruled on by lesser kings or local chiefs”¹⁷⁴

The powers of the rulers to resolve disputes were reflected in the local tribunals available to the people. Fadipe pointed to two central tribunals in Ife: the Feku court and the Geru court. He stated that the Geru court was both court of first instance and court of appeal¹⁷⁵ thus showing that the judicial system was tied to the hierarchy ending with the king. The Oba's court tries all cases civil and criminal. Serious offences such as murder, treason, rape and armed robberies were tried in the Oba's court and punished according to the offence, mostly execution.¹⁷⁶ The Oba's court usually will bring the matter to an end. For example, murder was not tried by the family head but left for the highest authority, the Oba's Council to effect

¹⁶⁷ Interviews Conducted by Researcher June To July 2014

¹⁶⁸ The Ogboni Secret Cult Is Said to Have the Final Say in Certain Instances Such Crimes of Murder Even Though the Oba Was the King.

¹⁶⁹ A.K Ajisafe., *The Laws and Customs of The Yoruba People* (London George Routledge & Sons, 1924)

¹⁷⁰ A.J Omosade & D.P Adelumo., *West Africa Traditional Religion* (Ibadan. Onibonaje, 1979) p. 22

¹⁷¹ P.C Lloyd., (1962) Ibid. p. 39

¹⁷² The History of Ile-Ife Online: <http://Theooni.Org/Ileife.Htm>

¹⁷³ P.C Lloyd., (1962) Op cit. p. 48

¹⁷⁴ New World Encyclopaedia: 'Oyo Empire, Online: http://Www.Newworldencyclopedia.Org/Entry/Oyo_Empire

¹⁷⁵ N.A Fadipe., *The Sociology of The Yoruba* (Ibadan University Press, 1970) p. 229

¹⁷⁶ W. Bascom., *The Yoruba of Southern Nigeria* (Waveland Inc., 1984) p. 45

both arrest and dealing with. This was corroborated by several Ife interviewees. One interviewee stated: “If there is a problem, it will be reported to the chiefs in the community but if it requires the palace to resolve it, then it will go to Seju Ade the king of Ife.”¹⁷⁷

The response above shows that even Ife traditional dispute settlement recognises that certain disputes have to be left for the government authorities, such matters incurring execution are normally left to the recognised cult the Ogbonito handle. Onadeko noted that in the 19th century, the Ogboni cult was the highest tribunal in Yoruba land.¹⁷⁸ In narrating how disputes were resolved in the Obas’ court, a seventy-year retired female teacher who has lived all her life in Ife noted that:

*“the people go to the palace and the case will be sorted amicably. Everybody brings their supporters who they call to give witness of the character of the opposing party. If one party is not satisfied, they go home complaining but the matter must end.”*¹⁷⁹

Perhaps the most striking aspect of this kind of dispute resolution is the fact that reconciliation is geared toward mutual co-operation and unity. This is notable because parties to disputes are often made to share from the same cup of drink as a means of reconciliation.¹⁸⁰ Pictures taken by foreign Colonial visitors in figure 3 shows that Ife had a recognised court house that was still operational during the colonial period.¹⁸¹



Figure 3 Undated Photograph of the Ife Court House

¹⁷⁷Ife interview IMA I

¹⁷⁸T. Onadeko., ‘Yoruba Traditional Adjudicatory Systems’ *African Study Monographs* vol. 29. no. 1., 2008, p.15-28[21]

¹⁷⁹Interviewee IA33

¹⁸⁰A.K Ajisafe., *The Laws and Customs of the Yoruba People* (London George Routledge & Sons,1924) p. 17

¹⁸¹Court House of Ife: Nigeria. Picture from National Archive, London (loose papers). Office of Information Photograph. INF 10/255/23. Retrieved 11.06.15

Fig.3 Undated photograph of the Ife Court House

While the Oba's court has the final say in conflict resolution (apart from the spiritual nature of conflicts led by the Ogboni court) it is notable that the Oba does not rule alone, neither does he command the respect of the people absolutely without any checks and balances. An Oba will rule with his council of chiefs with rights to legislate for the people.¹⁸² He is selected to ascend the throne by birth from the royal lineage by the chiefs of the villages because the chiefs "represent the people of the town."¹⁸³ Fadipe rightly noted that: "no change had any chance of being adopted which did not commend itself to the elders of the community."¹⁸⁴ It follows that the power of the Oba is limited by his chiefs in the matters he handles both in dispute resolution and even in land matters. The Ooni of Ife testified to this when he gave a detailed description of land ownership in Yoruba land especially in Ife. He stated that:

*"The native law with regard to land was very simple one and everybody knew it; the ownership of land was vested in the family, and such ownership applied to every branch of the family and was sacredly safeguarded. The Ooni was ruler of the people, but he could not interfere with the land rights of any family except his own family. If a man committed any offence and was banished or driven away from the country, his land could only be taken possession of by his children or his relations. In case a man dies and leaves no children, his land could only be taken possession of by his next of kin. Ife had been destroyed 3 times, some of the people captured and the rest driven into the bush; and the ruins which you see about the towns have not been built up, because the family owners have not come to build upon them; and it is the same case with farm lands. No one would dare to take possession of them in the absence of the owners. This is the land law of the Yoruba's throughout the Country and everybody knows it."*¹⁸⁵

A statement of the Ooni from the above quotation which is particularly illuminating is that "the Ooni was ruler of the people, but he could not interfere with the land rights of any family except his own family." The check on the powers of the kings does not mean that they could

¹⁸²P.C Lloyd., *Yoruba Land Law* (Oxford University Press, 1962) p. 48

¹⁸³P.C Lloyd., (1962) *Ibid.* p. 44

¹⁸⁴N.A Fadipe., *The Sociology of The Yoruba* (Ibadan University Press, 1970) p. 314

¹⁸⁵'The Land Tenure Question in West Africa Being: A Brief Report of The Meeting Held at Abeokuta, Ibadan, Oyo, Oshogbo, Ilesha, Ife And Ede By the Deputy Despatched to The Yoruba Hinterland for The Purpose of Collating Evidence on Native Land Tenure System' Reprinted from The Lagos Weekly Record and Published Under the Auspices of The People's Union, Lagos, And West Africa. (1913) p. 25-26

not have the final say in dispute resolution of their subjects in some instances. It was probably a curb of their powers to ensure there was no misuse of it and that justice was handed down correctly. For example, in matters of war, Ajisafe stressed that the Oba (king) had the responsibility of protecting the subjects under his rule and he alone could declare war against enemy communities.¹⁸⁶ The power to declare war was not to be used arbitrarily because that would endanger the life of the king and his subjects. Ajisafe also highlighted the seriousness of not declaring war arbitrarily because if the king declared war and loses the war, he must die before the defeated army returns home.¹⁸⁷ With this fate in view, the rulers of the various Yoruba groups must have been careful in resorting to war as a means of resolving conflicts. However, this does not mean that they never resorted to war. Akinjogbin¹⁸⁸ dedicated a book to the wars of the Yoruba people from 1793 to 1893. Falola and Oguntomisin¹⁸⁹ also dedicated a book to the Yoruba warlords of the 19th century. Furthermore, a Yoruba man takes honour in fighting for his immediate family, his community, and his Country.¹⁹⁰ Therefore, a Yoruba man would only have required little prompting from the kings to fight. According to Mabogunje, for most ancient Yoruba towns, “[w]ar was a way of life, constructive as well as destructive, with its own customs, creeds and artefacts.”¹⁹¹ These literary works reveal that wars formed part of conflict resolution of the Yoruba. Corroborating these academic works are journal entries of foreign visitors. Mr. Samuel Crowther’s journal entry of September 27th, 1841 reported that the Yoruba groups carried out wars for dethroning of kings and many Yoruba expressed the impossibility of ending war which they claim to be sanctioned by God.¹⁹² In addition, the Memoir of Henry Townsend, a Christian missionary to Nigeria in 1842 reported that the village chiefs in one Yorubaland-Abeokuta have prepared and erected platforms about 10-12 feet high to fire at observed enemy motions.¹⁹³ The power of the king to declare such wars was absolute and came with responsibilities. The decision of the king of Ife Oba Abewaile to send the Oyo strangers away to the outskirts of the Ife was within his political and judicial authority. It follows that separation was possible as a pre-colonial attempt at resolving the Ife-Modakeke conflict because of the political structure of the Yoruba

¹⁸⁶A.K Ajisafe., (1924) Ibid. p. 17

¹⁸⁷A.K Ajisafe., (1924) Op cit. p. 2

¹⁸⁸A. Akinjogbin., *War and Peace in Yoruba Land 1793-1893*(Heinemann Educational Books, Nigeria, 1998) p. 351

¹⁸⁹T. Falola & G.O Oguntomisin., *Yoruba Warlords of the 19th Century* (African World Press, 2001)

¹⁹⁰ A.K Ajisafe., *The Laws and Customs of the Yoruba People* (London George Routledge & Sons, 1924) p. 18

¹⁹¹ A.L Mabogunje., *Yoruba Towns* (Ibadan University Press, 1962). p. 224.

¹⁹² J.F.A Ajayi., *Journals of the Rev. James Frederick Schon and Mr. Samuel Crowther Who Accompanied the Expedition up the Niger in 1841* (2nd edition with an introduction by Ajayi Frank Cass & Co., 1970) p. 317

¹⁹³Memoir of the Rev. Henry Townsend. Late C.M.S Missionary, Abeokuta West Africa. Marshal Brothers. Available in the National Archive London. and British Library

which gives the king the power to resolve of conflict. However, the various checks and balances meant that the people could kill their king and seek to bring back the Modakeke as a justification of justice since the general Ife did not benefit economically from the strangers being separated from them. This did not go down well with the Ife, thus leading to the perception that their king was weak and later the Ife poisoned the king who had sent the Modakeke away and sought to bring back them to Ife.¹⁹⁴ To the Ife justice demanded that they keep hold of the Modakeke as subordinate to themselves as the Modakeke sided with the Ibadan rather than the Ife in the Ekitikparapo war which displaced the Ife from their land from 1849 to 1854, while the Modakeke remained in the land allocated to them by the late king Abewaila.¹⁹⁵ The Ife came back to reoccupy their land in 1854.¹⁹⁶ It can be argued that the Modakeke foundation of self-rule was laid when the Ife king separated them from the Ife in 1835 and the poor relationship with the Ife continued from then on.

Although the king's court and the Ogboni's decisions played the most important role in dispute resolution in the pre-colonial Ife-Modakeke, it is worth mentioning that the other hierarchy of dispute resolution in the council of chiefs and family heads played an important role in ensuring justice in the land and keeping the peace of the land. It must be stressed that at these levels, only civil matters are heard. The criminal matters are left for higher judicial authorities, mainly the Oba Igbimo's courts.

3.6 Conclusion

In conclusion, under this chapter, this study has demonstrated that the pre-colonial social, economic and political structure of the Ife and the Modakeke as Yoruba sub-groups made separation a useful but difficult option for conflict prevention and resolution. Due to the unique relationship between the Ife and the Modakeke from Oyo, although the Ife king could separate the two groups, the separation initiated by the him to resolve the Ife-Modakeke conflict was only short lived in preventing and managing the conflict. To reach this conclusion, this thesis have presented evidence on the following key aspects of the Ife-Modakeke social, economic and political structure in pre-colonial times (1) Causes of the Ife-

¹⁹⁴S. Johnson., *The History of the Yoruba from the Earliest Times to the Beginning of the British Protectorate* (George Routledge and Sons Ltd, 1921) p. 723

¹⁹⁵J.F.A Ajayi & S.A Akintoye., *Yoruba Land in the Nineteenth Century* in O. Ikime (ed) *Groundwork of Nigerian History* (OHEBN Publishers Ibadan, Nigeria, 1980) p. 286

¹⁹⁶R.A Olaniya., *The Modakeke Question in Ife Politics and Democracy* in I.A Akinjogbin., *The Cradle of a Race: Ife From the Beginning to 1980* (Sunray Publications, Port Harcourt, 1992) p. 274

Modakeke conflict and separation attempts (2) kinship ties (3) land tenure (4) the Yoruba pre-colonial economic system and (5) pre-colonial state capitals and subordinate towns and the power of the king.

The evidence presented under the key aspects discussed above, helps to answer the first research sub-question “to what extent does the pre-colonial socio-economic and political structure of societies such as the Ife and the Modakeke demonstrate that separation was useful for conflict prevention and resolution and how successful was separation in preventing and managing the Ife-Modakeke conflict in pre-colonial times.?” The answer to the question is that separation was to a considerable extent useful for resolving the Ife-Modakeke conflict in pre-colonial times. However, there were challenges to the success of separating the groups. These challenges were caused by the social norms of the Yoruba which encouraged separation and the autonomous existence of the Yoruba groups, native/Indigene-settler discrimination, economic benefit and reliance of the Ife on Modakeke migrant labour and the political structure of the pre-colonial Ife and Modakeke sub-groups. The thesis therefore acknowledged that in order to separate the groups, these challenges must be adequately addressed.

The next chapter builds on this chapter to present an analysis of the effect of the social, economic and political colonial structure of the Ife-Modakeke on their conflict and attempts at dispute resolution by separation.

4. CHAPTER FOUR: THE COLONIAL SOCIAL, ECONOMIC AND POLITICAL STRUCTURE OF THE IFE-MODAKEKE AND THE FEASIBILITY FOR SEPARATION

4.1 Introduction

This chapter is aimed at providing evidence in support of the argument that the social, economic and political structure of the Ife and the Modakeke in colonial times made separation difficult as a means of resolving the Ife-Modakeke conflict because the traditional rulers lacked the judicial power to separate the groups. Further, the colonial government sustained the norms of the Yoruba that prejudiced all effort at separation such as the hierarchy created between natives and settlers in land tenure. Therefore, to resolve the Ife-Modakeke conflict, it is necessary to separate the norms of the people from the realities of dispute resolution. The chapter focuses on the analysis of the social, economic and political structure of the Ife-Modakeke and applies this to answer the following research sub-question: to what extent does the colonial socio-economic and political structure of the Ife-Modakeke demonstrate separation or the lack of separation as a means of resolving their conflict? The materials retrieved from archives, published literature and contemporary oral testimonies of the Ife and the Modakeke groups in 2014 shall provide illustrative examples for the analysis. The method used has previously been delineated in chapter two.

To answer the second research sub-question, the chapter first identifies the time line for the colonial era in Nigeria. The time-line helped in determining which laws and Constitutions were to be analysed in relation to their impact on group structure and dispute resolution. Then, the chapter deals with the history of the Ife-Modakeke conflict and attempts at resolution in colonial times to assess the impact of the colonial State in the conflict between the groups. The chapter then examines the three structures of the Ife and the Modakeke and concludes with the effect of the social, economic and political structure on the Ife-Modakeke conflict and dispute resolution with regards to separation.

4.2 Time-Line for the Colonial Era

Trading was evident between the British and the local people living around the Niger¹ but in 1849 a British Consulate was established for the Bights of Benin and Biafra.² Importantly, the dispute resolution abilities of the chiefs were impacted upon during those early days of trading, as disputes between the British traders and the natives were addressed through discussions in meetings between the native chiefs and shipmasters. However, it was only the shipmasters who could punish the British seamen.³ Active involvement in the political affairs of the tribal people and the colonial occupation of the areas now making up the Ife and the Modakeke did not start until 1886, when Lagos was made a separate colony from Gold Coast and Sierra-Leone following the Berlin conference of 1884, where the entire Yoruba region was accepted as belonging to the British Empire.⁴ The letter of Governor G.T Carter to Chamberlain stated that the foreign traders and missionaries intervened in the wars of the Yoruba group primarily for the protection of their trading routes rather than because they had a desire to colonise the people and take away their autonomy.⁵ The Treaty entered into between Her Majesty the Queen of England and the King, chiefs, elders and peoples of Ife in 1888 stated that: “[The] Kingdom of Ife is perfectly independent and pays tribute to no other power”⁶

The 1888 treaty implies that the Ife was not under colonial rule at the time. Supporting this position is the statement of Moseley to the Colonial Office in 1904⁷ that the Treaties entered into with the Ife were for the mere validation of other treaty agreements entered into with Yoruba communities since Ife played an important role in ancient Yoruba. In addition, Lord Lugard in his political Memorandum 1913-1918 stated that:

*“there are no two sets of rulers-British and Native working either separately or in co-operation, but a single Government in which the Native Chiefs have well-defined duties and an acknowledged status equally with the British officials.”*⁸

¹J. Illiffe., *Africans: The History of a Continent* (Cambridge University Press, 1995) p. 204

²B.O Nwabueze., *A Constitutional History of Nigeria* (Hurst & Company London, 1982) p. 5

³B.O Nwabueze., (1982) Ibid. p.5

⁴Nwabueze Stated that Complete Power over the Yoruba Land was by order in Council of 1913

⁵Letter of Governor G.T Carter to Chamberlain Dated 11 January, 1896. CSO. 1/1/16 National Archive Ibadan

⁶Treaty Between H.M the Queen and the King, Chiefs, Elders and Peoples of Ife. 22 May, 1888 in E. Hertsiet., *The Map of Africa by Treaty*. (3rd edition, British Colonies, Protectorates and Possessions in Africa, Frank Cass & Co Ltd., 1967) p. 106

⁷Letter of C.H.H. Moseley to the Colonial Office Dated 8th July, 1904 National Archive Ibadan. CSO 1/3 VII

⁸Lord Lugard Political Memorandum in A.H.M Kirk-Greene., *The Principles of Native Administration in Nigeria. Selected Documents 1900-1947* (Oxford University Press, 1965) p. 71

The above statement suggests that it was only when the British could not rule the local people by means of the people's representatives that they decided to take over the complete political, legal and military authority of their colonies. A more political action was thus needed and effected in 1914 by the amalgamation of the Northern Niger Protectorate and the Southern Nigeria Protectorate, joining Yoruba regions and other British territories into the colony and protectorate of Nigeria. Colonialization of the local people in Africa was according to Lord Lugard due primarily to the idea that they were colonisable.⁹ This view may have led the British to occupy areas around the rivers Niger and Benue and would later begin to impact on the political autonomy and dispute resolution processes of the people in these areas.

From the above discussion, the established start of the time-line for the British takeover of tribal political authority is around 1886 when Lagos was colonised, followed by the period from 1888 to 1914 when the North and South Protectorates of Nigeria were amalgamated with Lagos to form the colonial territory of Nigeria. Therefore, only Constitutions and laws that fall within the period starting 1886 and ending in 1960 (when Nigeria gained independence from British rule) are analysed to determine the impact of the Constitution and other laws on the dispute resolution processes of tribes during the colonial period. The analysis draws on various accounts in archival documents, oral interviews conducted and colonial papers available on the colonial interventions in the Ife-Modakeke conflict.

With the time-line identified above, the two episodes of violent conflict between the Ife and the Modakeke in the colonial era are discussed below in relation to the triggers of the conflict and attempts at resolution by separation.

4.3 The Ife-Modakeke Conflict and Attempts at Dispute Resolution: Colonial Era

This section argues that the two violent conflict in the colonial era between the Ife and the Modakeke are a result of the non-enforcement of separation of the groups by the colonial government. Also, the change in economic structure of the groups led to their conflict.

⁹ F. D Lugard., *The Dual Mandate in British Tropical Africa* (William Blackwood & Sons, Edinburgh & London, 1922 W6 9556 British Library) p. 9

As a starting point, it is essential to point out that the colonial era only saw two violent confrontations between the Ife and the Modakeke between 1882 to 1909 and 1946 to 1949¹⁰ essentially because the colonial government did not initially change much among the Yoruba groups. In fact, Fadipe noted that “the establishment of the British Protectorate over the various states of Yorubaland was not accompanied by any major outward change in the system of government to which the people had been accustomed.”¹¹ Therefore, this sub-section provides an analysis of the triggers to the two violent conflict and attempts at resolution, to demonstrate that non-enforcement of the separation of the groups in colonial times led to the continuation of the conflict coupled with the colonial administration sustaining the norms of the Yoruba that discriminated against strangers’/settlers’ use of land.

After the 1835 war with the Ife discussed in chapter three (3.2.3), the second violent conflict between the Ife and the Modakeke took place in 1882 when Ibadan, an Oyo-migrant Yoruba community, used the Modakeke who were Oyo refugees now residing in the outskirts of Ife (still part of Ife land) to defeat the Ife in war.¹² This led to war between the Ife and the Modakeke.¹³ But this was not the only war going on in the Yorubaland. In a letter to Ripon in 1891, the governor of Lagos G.T Carter requested that the Ife evacuate their war encampment against the Modakeke and return to their homes.¹⁴ Ife also took part in the sixteen years of wars (1877-1893) with Ibadan and other Yoruba countries in the most notorious war at Kiriji which ended with a peace treaty in 1886.¹⁵

The proliferation of war in Yorubaland clearly shows that war was a means of addressing disputes with other sub-groups of the Yoruba. This was corroborated by the people themselves in interviews conducted in Ife-Modakeke in 2014. When asked questions on the consequence of not honouring traditional settlements, one participant said: “They will have to accept the settlement otherwise there will be war.”¹⁶ Also giving the history of the Modakeke as handed orally down to him, a Modakeke participant said: “That time there was crisis between Ife and Modakeke in 1884. In 1884 when the crisis came the two communities were fought so

¹⁰R.A Asiyanbola., ‘Ethnic Conflicts in Nigeria: A Case of Ife-Modakeke in Historical Perspective’. *Journal of Humanities, Social Sciences and Creative Arts*. vol. 5 no. 1, 2010, p. 61-78[63]

¹¹ N.A Fadipe., *The Sociology of the Yoruba* (Ibadan University Press, 1970) p. 213

¹² I.A Akinjogbin., *War and Peace in Yorubaland 1793-1893* (Heinemann Educational Books, Nigeria, 1998) p. 14

¹³I.A Akinjogbin., (1998) *Ibid*. p. 14

¹⁴ See letter of Gilbert T Carter to Ripon dated 30 August, 1894. CSO 1/1/14 National Archive Ibadan

¹⁵ W. Bascom., *The Yoruba of South-Western Nigeria* (University of California, Berkeley 1969) p. 15

¹⁶ See Interview IMA26

meanwhile Modakeke have to go away from Ife.”¹⁷ These statements corroborated the conclusion reached by this thesis that war was a method of conflict resolution recognised by the people themselves. Yet war as a means of dispute resolution only results in a continuation of the Ife-Modakeke conflict.

One very notable intervention of the British colonial administration in the Yoruba wars came in September/October 1886 when the Lagos government sent a peace envoy to the Yoruba interior. According to Akinjogbin, the envoy became “disenchanted with protracted and intractable conflict and left early November”¹⁸ Captain A.C Maloney the new governor of Lagos then set up a peace commission in 1886 to look into the Yoruba wars that included that of the Ife and Modakeke.¹⁹ He made the Ife and the Modakeke send representatives to Lagos where a peace treaty was drawn up. In an attempt to bring permanent peace to the Yorubaland, the British colonial government intervened in the conflict in 1886 by having parties to all the existing local conflicts in the Yorubaland sign a peace Treaty.²⁰ The fifth clause of the Treaty provided that the Modakeke should abandon the land allocated to them by the Ife king Ooni Abewaile and move to the mainland of the Ife.²¹ Under the provisions of the 1886 Treaty, the Modakeke land was to revert to the Ife kings and chiefs who were to deal with the land as they thought expedient.²² Apparently, the Ife kings and chiefs did not enforce the Treaty and neither did the colonial government. As a result, the individual Ife people started taking steps to enforce the law by molesting the Modakeke people.²³ According to Johnson, the colonial resident officer in the Ife saw the Modakeke being molested but did nothing about it and in 1909 the Ife was broken up, the Modakeke fleeing from their land.²⁴ There is no proof that the Modakeke went to settle in any other part of Nigeria but evidence shows that the Ife did not reoccupy the Modakeke land when they were disbanded. According to Willet in 1910, when archaeologist Leo Frobenius visited Ife and requested a visit to Modakeke, Modakeke was in ruins and not being occupied by the Ife.²⁵ Because the Ife did not occupy the Modakeke land,

¹⁷ See Interview MA6

¹⁸ A. Akinjogbin., *War and Peace in Yoruba Land 1793-1893* (Heinemann Educational Books, Nigeria, 1998) p. 272

¹⁹ Letter by Maloney 1886 in C.R Niven., *A Short History of the Yoruba People* (Longmans, Green & Co., 1958) p. 100

²⁰ S. Johnson., *The History of the Yoruba from the Earliest Times to the Beginning of the British Protectorate* (George Routledge & Sons Ltd ,1921) p. 723

²¹ I. A Akinjogbin., *War and Peace in Yoruba Land 1793-1893* (Heinemann Educational Books, Nigeria, 1992) p. 272

²² See 1886 Treaty in Appendix of S. Johnson., (1921) Ibid.

²³ S. Johnson., (1921) Op cit. p. 646

²⁴ S. Johnson., *The History of the Yoruba from the Earliest Times to the Beginning of the British Protectorate* (George Routledge & Sons Ltd ,1921) p. 646

²⁵ F. Willet., ‘Ife and its Archaeology’ *The Journal of African History* vol. 1. no.2. p. 231-248[237]

it paved the way for the Modakeke future return to their land allocated to them by the Ife king Abewaila and the continuation of the conflict between the groups.

In a letter dated 27th May 1915 to the Resident Officer on the re-migration of the Modakeke to the Ife, the Ooni of Ife stated that the Ifes would not wish to have the Modakeke back to Ile-Ife. Their reason being that they “do not want to turn what [their] fore-father has put right”²⁶ The Ooni then went ahead to plead that the Commissioner at Oyo help to enforce their wish.

It is obvious from the 1915 letter of the Ooni that the Ife recognized that physical separation was the right way to resolve the Ife-Modakeke conflict but needed the help of the colonial administration to enforce the non-return of the Modakeke to Ile-Ife. However, according to Johnson because of scarcity of land, the Modakeke came back to settle in the Ife in the 1920's.²⁷ The return of the Modakeke was against the wishes of the colonial government ²⁸ and their return was not to Ife main city but to their initial separate settlements. This is supported by the response of the resident officer in a letter dated 4th June 1915 to the secretary of the southern province in which he stated emphatically that he did not back the return of the Modakeke to Ife, rather he preferred them to settle at Lasole where they had originally been sent by the Alaafin before colonial intervention.²⁹ Also in a letter from the senior resident officer at Oyo to the District Officer at Ibadan dated 25th March 1919, the Resident officer stressed that: “The Town of Modakeke cannot be re-built without reference to his Excellency the Governor.... I shall support no re-migration of any Modakeke from Ibadan territory.”³⁰

Although the colonial government did not actively support the return of the Modakeke to the land the Ooni had settled them previously, the Modakeke returned to their settlement with a condition that Modakeke would not be a separate community but part of the Ife.³¹ This arrangement later posed a problem because, although by virtue of the Treaty they agreed to

²⁶Letter sent by the Ooni of Ife to the Resident Officer, 27th May, 1915. Ibadan National Archive

²⁷S. Johnson., *The History of the Yoruba from the Earliest Times to the Beginning of the British Protectorate* (George Routledge & Sons Ltd ,1921) p. 319

²⁸In a letter of resident officer in a letter dated 4th June, 1915 to the secretary Southern province where he stated emphatically that he does not back the return of the Modakeke to Ife rather he prefers them to settle at Lasole were they were originally sent by the Alaafin before colonial intervention. See Letter sent by the W.A. Ross Commissioner to the Secretary of Southern Province, 4th June, 1915. D.O. Ibadan No. C. 39/21/15. Ibadan National Archive. See also Letter sent by the Senior Resident Officer to the District Officer at Ibadan, 25th March, 1919. DO NO. 624/203/1919. Ibadan National Archive

²⁹ Letter sent by the W.A. Ross Commissioner to the Secretary of Southern Province, 4th June, 1915. D.O. Ibadan No. C. 39/21/15. Ibadan National Archive

³⁰ Letter sent by the Senior Resident Officer to the District Officer at Ibadan, 25th March, 1919. DO NO. 624/203/1919. Ibadan National Archive

³¹I.A Akinjogbin., *The Cradle of a Race: Ife from the Beginning to 1980*(Sunray Publications, Port Harcourt, 1992) p. 274

return as part of the Ife, their return was not physically into Ile-Ife but to an old Modakeke settlement which appeared to have been autonomous of the Ife.³²

There was peace from 1920 to 1930 because, according to Asiyanbola, the Ogunsua³³ of Modakeke was incorporated by the colonial government into the native administrative system of Ife ³⁴apparently giving the Modakeke pride of place in the Ife and ensuring their relative autonomy. The Modakeke later tried to breach the terms of their return by applying for a separate native court for their people. The colonial government rejected the application in 1940³⁵ apparently as a means of enforcing the 1886 Treaty that requested the Modakeke leave their land and move into Ile-Ife as part of Ife or go somewhere else to settle. Also, although there was already an Ife Imam for the Muslim community in Ife, the Modakeke petitioned the Ooni of Ife for their own separate Imam but the Ooni rejected the petition stating that the Modakeke were a quarter in Ife and not a separate community.³⁶ This failure to acknowledge to the Modakeke that they were separate from the Ife, even though they had returned to the Ife, meant that the conflict persisted among the groups as the Modakeke refused to see themselves as part of the Ife.

The second violent conflict between the two groups was in 1946 with the new trigger of the conflict being the cocoa boom. The Ife started requesting 10% of the cocoa yield as a form of Ishakole, rent for the use of land by the Modakeke. The latter refused to pay, writing to the colonial government complaining of the Ife extortion but the Modakeke failed on judicial rulings in 1948.³⁷ This led to continued bitterness between the Ife and the Modakeke. The colonial State could not end the conflict between them through separation. The reasons are provided below by an analysis of the social, economic and political structure of the Yoruba in colonial times.

³²As discussed in chapter three under the sub-heading 3.5, the Oyo of which the Modakeke came from dealt with their sur-bordinate towns as independent towns with only tributary allegiance being paid to the main capital town

³³The Title of the leader Modakeke appointed for themselves while in the settlement allocated by the Ooni of Ife in 1835

³⁴R.A Asiyanbola., 'Ethnic Conflicts in Nigeria: A Case of Ife-Modakeke in Historical Perspective'. *Journal of Humanities, Social Sciences and Creative Arts*. vol. 5 no. 1, 2010, p. 61-78[68]

³⁵Nigerian Tribune, 7 May, 1981. Ibadan. p. 3

³⁶Oyo profile 3, File No. Oy/2499. National Archive Ibadan

³⁷I.O Albert., *Ife-Modakeke Crisis* in O. Otite & I.O Albert., (eds) *Communal Conflicts in Nigeria: Management, Resolution and Transformation* (Spectrum Books Ltd., 1999) p. 145

4.4 The Ife and the Modakeke Social Structure in Colonial Nigeria

Considering that the overall theme of this thesis is that economic and political separation is both feasible and useful for resolving the Ife-Modakeke conflict, this section analyses the colonial precedent of separation and considers the reasons for the success or failed use of this method to resolve the conflict. The first line of analysis is the social structure of the Ife and the Modakeke under the colonial administration. In this section, the thesis demonstrates that the social structure of the Ife and the Modakeke in colonial times did not encourage separation as a dispute resolution mechanism even though the colonial government made attempts at separating the groups. The colonial government, by sustaining the Yoruba norm of Ishakole and the indirect rule system in which the traditional rulers were used to rule the people, retained the hierarchy between natives and settlers thus sustaining the conflict rather than resolving it. Chapter three demonstrated that the Ife and the Modakeke did not have close kinship ties except for marriage and belief in the same origin, therefore separation was possible but did not result in permanent resolution of the conflict because there was hierarchy between the natives and the settlers. This hierarchy was evident in the land tenure system and meant that the Modakeke could not deal with land in the same way as the Ife regardless of how long they lived together.

4.4.1 Kinship Ties

Within Yoruba groups, the compound was still the unit of society in colonial times because everything in pre-colonial Yoruba remained the same in the early beginnings of the colonial era. As stated in a letter of Bennett to Baylis dated 20th July 1897 “The local officials of the RNC do not as a rule attempt any interference with the customs and laws of the people...”³⁸ However, in the resolution of conflict between the Yoruba groups, the colonial administration eroded the autonomous status of these Yoruba groups by means of indirect rule, which was an attempt by the colonial administration at restoring the monarchy arrangement in Yorubaland. Such indirect rule meant that local traditional rulers continued to rule their people while being answerable to the colonial power.³⁹ This was deemed necessary by the colonial power because they wanted the cooperation of the traditional rulers who at the start of colonial rule had lost their place among the people. Akinjogbin reported that, by 1862, militarism had

³⁸CMS GSAS 1897 Bennett to Baylis 20 July, 1897 cited by E. Isichei., *A History of Nigeria* (Longman Inc. 1983) p. 366

³⁹T. Falola., *Slavery and Pawnship in the Yoruba Economy of the Nineteenth Century* in P.E Lovejoy & T. Falola., *Pawnship, Slavery and Colonialism in Africa*. Africa World Press, 2003. p. 109-135 [113]

overshadowed and undermined monarchy and the powers of rulers.⁴⁰ During this time period, Adepegba described the extent of the powers of the military over the rulers of the people, claiming that when there were claims of superiority among the Yoruba, they were decided in the battlefields.⁴¹ With respect to this, Adepegba further noted that: “those who dictated the events of the period were in some cases not the rulers of the people; they were the soldiers of fortune to whom the rulers looked in the face of attack.”⁴²

With the powers of the military described above, suffice it to state that the situation needed intervention. Such intervention came when the British colonial rule tried to salvage the situation by introducing indirect rule, where the powers of the military were reduced by bestowing new chieftaincies on prominent military war lords and placing them under the existing traditional rulers.⁴³ While this served to restore the pre-19th century monarchy arrangement, the reality is that the association of the colonial administrators with the elite of the Yoruba created artificial ties for the people to suit the need for colonialization. For example, Captain W.A. Ross was appointed as district commissioner in Oyo in 1906 to 1931. Then he became close friends with the ruler of new Oyo named Ladugbolu. The relationship led to the elevation of the Alaafin of Oyo over the other Yoruba areas. Otite noted that what colonialism did was help to perpetuate or encourage internal separateness and gave a lack of recognition of group differences and boundaries by “incorporating traditional institutions into its administrative arrangement.” Having succeeded in weakening the internal harmony of ethnic groups, they could then “rule each and all of them [colonised states] together more effectively”⁴⁴ This invariably contributed to the animosity and struggles for superiority that continued to exist between the Ife and the Modakeke.

4.4.2 Land

As discussed in chapter three, under the social structure of pre-colonial Ife and Modakeke, in pre-colonial times there was no scramble for land as each adult native male that needed land had it. In the colonial times however, land became very valuable as it was used for planting cash crops that yielded profitable trade to the local people and the European traders. As a

⁴⁰ A. Akinjogbin., *War and Peace in Yorubaland 1793-1893* (Heinemann Educational Books, Nigeria, 1998) p. 351

⁴¹ C.O Adepegba., *The Descent from Oduduwa: Claims of Superiority Among Some Yoruba Traditional Rulers and the Arts of Ancient Ife. The International Journal of African Historical Studies* Boston University African Studies Centre vol. 19. no. 1., 1986, p. 77-92 [80-81].

⁴² C.O Adepegba., (1986) *Ibid.* p. 80-81

⁴³ A. Akinjogbin., (1998) *Ibid.* p. 359

⁴⁴ O. Otite., *Ethnic Pluralism Ethnicity and Ethnic Conflicts in Nigeria* (Shaneson C.I. Limited Ibadan, 2000) p. 18

result of the realization of the value of land in the colonial times, suddenly each group wanted to keep whatever land they had in the family. As noted by Boone⁴⁵ the people who bore the burden of that were always the strangers and, in this case, it was the Modakeke. The Ife wanted to reclaim the land given to the Modakeke and the Modakeke in return laid claim to the land given to them by the Ooni in pre-colonial times and refused to relinquish it.

The difference in the number of contemporary Ife participants who stated that land was the major contributing factor to the triggers for the Ife-Modakeke conflict compared with the Modakeke numbers is indicative of how both groups view land as part of the conflict. For the Ife, 26 out of the 50 participants noted that land was a major contributory factor to the conflict, while for the Modakeke it was 14 out of 26. This amounts to 52% for the Ife as against 33% of the Modakeke. The Ife thus see land struggles as a very high cause of the conflict. This is not surprising as the Ife were the earliest residents in the land while the Modakeke are settlers in the region.

While in pre-colonial times traditional rulers dealt with land communally, in the colonial times, the traditional rulers could no longer solely proceed in this way. The colonialists dealt with lands as Crown properties, even the lands of the tribal people were transferred to other groups at the will of the colonialist.⁴⁶ Although the traditional rulers became part of the colonial government as native authorities, the description of indirect rule offered by Lord Lugard (a former Governor-General of Nigeria) in his 1922 book shows that the traditional rulers were merely puppets in the hands of the British administration. Lugard explained that:

*“The Resident’s advice on general policy must be followed but the native ruler issues his own instructions to his subordinate chiefs and district heads - not as the orders of the Resident but as his own”*⁴⁷

Therefore, the Ife could not claim tribute from the Modakeke without resistance and court cases from them. The colonial administration, however, sided with the Ife to continue the norm of paying Ishakole, this time not as gratitude for use of land but as rent. As a result, the

⁴⁵Although Boone did not write specifically about Nigeria, her book was centred on some West African countries with similar groups as the Ife and the Modakeke. C. Boone., *Property and Political Order in Africa: Land Rights and the Structure of Politics* (London School of Economics and Political Science, Cambridge University Press, 2014) p. 105

⁴⁶See letter of Honourable Malcolm Macdonald Secretary of State for the Colonies where he stated that he proposed to transfer large areas of land from Bornu Province of The Tera Tribe, to Bauchi Province. Doc. No. 842 8th November, 1935. National Archive London

⁴⁷F. Lugard., *The Dual Mandate in British Tropical Africa* (Edinburgh: Blackwood & Sons, 1922) p. 20

Modakeke petitioned the Ooni of Ife on the payment of Ishakole.⁴⁸ In reply to the petition it was noted that:

“Every Modakeke man has a right to own land if only he agrees to go to the bush and take it. But whoever chooses to farm in another man’s land must pay the inevitable fee. There is no justification for a man to refuse to pay Ishakole to his landlord.”⁴⁹

This statement reveals the Ooni’s decision on the matter. The colonial administration supported the decision of the Ooni replying to the Modakeke Memorandum to the Chief Commissioner of the Western Province on the same matter of Ishakole⁵⁰ that:

“His Honor has no intention, and indeed has no power to order the Ife people to refrain from demanding the Ishakole which they regard as the customary payment by tenant to landlord...”⁵¹

The government response pointed the people to the decision of the Ooni and concluded that if any Ife landlord feels their rights have been deprived, they should have recourse to the established courts.⁵² This continued the hierarchy of the Ife against the Modakeke settlers and thus the continued conflict.

4.4.3 Native/Indigene-Settler Relationship

Mamdani wrote on the effects of colonialism in Africa. His main contention was that colonialism was not just felt economically in Africa, as indicated in most literature but included the creation of segmentation in African ethnic groups by encouraging cultural identity issues, emphasizing the differences between cultural and political identities.⁵³ His argument centred mainly on the detrimental effect of the colonial powers’ governing of ethnic groups through customary laws rather than civil laws, creating a difference between races (non-natives) and ethnicities (natives), between civil rights and customs and between civil laws and customary laws.

⁴⁸Letter of Petition of Modakeke Progressive Union, Lagos on the Payment of Ishakole dated 16th September, 1947. D.O No. 113/43. Ibadan National Archive

⁴⁹Ooni’s Reply Quote in the Letter of Resident Officer at Oyo to the Government of the Western Province Ibadan. 31st Oct, 1947. P.O No. 1929/61A. Provincial Office Oyo. National Archive Ibadan.

⁵⁰Memorandum Dated October 1947. Ibid. Ibadan National Archive.

⁵¹Letter of Resident Officer at Oyo to Government Western Province Ibadan. 31st Oct, 1947. Ibid. National Archive Ibadan.

⁵²Letter of Resident Officer at Oyo to Government Western Province Ibadan. 31st Oct, 1947. National Archive Ibadan.

⁵³M. Mamdani., ‘Beyond Settlers and Native as Political Identities: Overcoming the Political Legacy of Colonialism. Comparative Studies in Society and History’ vol. 43. no. 4. Oct. 2001. Cambridge University Press. p. 651-664 [652]

Civil laws, Mamdani argued, set the “limits to power” adding that “civic power was to be exercised within the rule of law and had to observe the sanctity of the domain of rights.” However, customary laws he argued “did not circumscribe power, for custom was *enforced*. The language of custom *enabled* power instead of checking it by drawing boundaries around it. In such an arrangement, no rule of law was possible.”⁵⁴

Mamdani stated that the colonial State gave civil rights to non-natives and customary laws to natives. Hence, according to him, “rights belonged to non-natives. Natives had to live according to custom.”⁵⁵ This created a dual system of rights in the colonial era. For Mamdani the post-colonial State, which he calls the “mainstream nationalist” inherited and reproduced the dual identity created by the colonial State, that of natives and non-natives (or settlers as used by modern State) and native rights and non-native rights. In his words, however, the post-colonial state not only gave civil rights to all citizens both natives and non-natives (indigenous and nonindigenous), but the State gave customary rights as a bonus to the indigenous citizens.⁵⁶ Thus a system of inequality was reproduced which continues to bedevil ethnic groups in Africa today, including in Nigeria.

Turner maintained that two groups with different status positions will always be in conflict, the superior group wanting to maintain their status and the inferior group seeking liberation from an inferior position.⁵⁷ This is corroborated by the relationship of Ife and Modakeke prior to the conflict between them. Oladoyin noted that the initial relationship between the Ifes and the Modakekes was cordial when it was the superior Ife over the immigrant, inferior Modakeke, until the former lost political and economic dominance over the latter.⁵⁸ This continued differentiation in status between the groups led to continued conflict and greater appeals for separation on the part of the Modakeke. The method of conflict resolution initiated by the British colonial administration was having parties to all the existing local conflicts in the Yorubaland sign a peace Treaty in 1886.⁵⁹ The fifth clause of the Treaty provided that the Modakeke should abandon their land and move to the mainland of the Ife⁶⁰ and for the

⁵⁴M. Mamdani., (2001) Ibid. p. 654

⁵⁵M. Mamdani., (2001) Op cit. p. 654

⁵⁶M. Mamdani., ‘Beyond Settlers and Native as Political Identities: Overcoming the Political Legacy of Colonialism. Comparative Studies in Society and History’ vol. 43, no. 4, Oct. 2001. Cambridge University Press. p. 651-664 [658]

⁵⁷J.C Turner., *Social Categorization and Social Comparison in Intergroup Relations* (Unpublished PhD Thesis University of Bristol in S. Aharpour., *Social Identity Theory and Group Diversity: An Analysis of Functions of Group Diversity* (University of Kent Canterbury, 1999)

⁵⁸A.M Oladoyin., ‘State and Ethno-communal Violence in Nigeria: The Case of Ife-Modakeke’ *Africa Development* vol. 26 no. 1 & 2.

⁵⁹S. Johnson., *The History of the Yoruba from the Earliest Times to the Beginning of the British Protectorate* (George Routledge & Sons Ltd ,1921) p. 723

⁶⁰I.A Akinjogbin., (1992) Ibid. p.272

Modakeke land to revert to the Ife kings and chiefs who were to deal with the land as they thought expedient.⁶¹ This resolution sustained the native/indigene-settler hierarchy relationship between the Ife and the Modakeke because the Treaty made it clear that the land belonged to the first settlers, the Ife, thus the Modakeke had no rights to the land as settlers in Ife.

4.5 Economic Structure of the Ife and the Modakeke and Separation

Although it was the principle of the colonial administration never to alienate indigenous lands, because of foreign companies coming to manage palm plantations it became necessary to do so. This land alienation introduced a lucrative economy for the Yoruba and led to greedy alienation.⁶² Following this, the new-found norm of the people led to the increased determination of the Modakeke to be self-ruled and the Ife, on the other hand, to want to keep the Modakeke territory as Ife property and not allow the Modakeke to become independent people.

Also, during the colonial period in Nigeria, different groups, especially the three major ethnic groups, depended upon various cash crops or minerals. The north depended on groundnut, the East on palm products and the West on cocoa. Post and Vickers noted that this variation was the basis for separate political developments that ended in polarization of the groups.⁶³ Rather than bringing groups into close cooperation, the economic structure of the colonial era served to separate them. With regards to the Ife and the Modakeke as part of the Western Yoruba groups, the high dependency on cocoa drove a wedge between the two groups and triggered the 1946 conflict which saw the Modakeke more determined to be separate from the Ife as the Ife landlords demanded more Ishakole for the use of their land to farm cocoa. If the two groups had remained separated during the colonial era and during the cocoa boom, the conflict would not have resumed in 1946 with the increased demand for Ishakole by the Ife landlords. There would have been no need for the Modakeke to pay the Ishakole.

In addition, during the colonial era, the Native authority, which was the British way of indirect rule through the tribal leaders, needed financing by means of taxation of the people. This proved to be problematic as the people were not used to a systematic method of taxation, even

⁶¹See 1886 Treaty in Appendix of S. Johnson., (1921) Ibid.

⁶²M. Crowder., *The Story of Nigeria* (Faber and Faber, 1962) p. 216

⁶³K.W.J Post & M. Vickers., *Structure and Conflict in Nigeria 1960-1966* (Heinemann Educational Books Ltd, 1973) p. 2

though they were used to giving tributes to their kings.⁶⁴ Thus the Modakeke needed to continue to pay the Ishakole and this continued the terms of the conflict. Fadipe's observation of the effect of the economic shift during the colonial era appears to endorse the negative impact of the colonial era on Ife autonomy and conflict resolution abilities. Fadipe noted that indirect rule saw the chiefs and king restored to their economic and political positions. This is because under the Native Authority system, the chief collected taxes from the people and served in the Native courts. As a result, the evils usually associated with money began to be felt by the Yoruba people. The interest of the chiefs became very removed from the interests of the people. Fadipe further noted that:

*"Squabbles about boundaries took place with greater frequency and persistence than would have been the case if the chiefs did not know that the greater the number of heads the greater the dividend among themselves."*⁶⁵

The loss of integrity of those who were in a position of trust to resolve the conflicts of the Ife and Modakeke, namely their chiefs, was being directly influenced by monetary gain. As a result, justice was not to be expected from these corrupt rulers. Traditional dispute resolution was thus negatively impacted by the Colonial State.

Local government laws such as the Western Region Policy 1952, fashioned after the English Local Government Act of 1933, created a three-tier system of government: regional, district, and local councils.⁶⁶ The local councils had jurisdiction over remote communities such as the Ife and the Modakeke and gave each council autonomy to access taxes, rates and award contracts. This economic benefit created more determination in the Modakeke to be separate from the Ife. The finding of oil in Nigeria in 1958 later created greater dependency that led to further conflict between the groups but this will be discussed in the next chapter. Coleman rightly summed it up by indicating that the changes from self-sufficiency to dependence in oil have "profoundly affected traditional loyalties, patterns of behaviours, and social obligations."⁶⁷

⁶⁴J.E Egbe., 'Native Authorities and Local Government in Nigeria Since 1914' *IOSR Journal of Human and Social Science* vol. 19 Issue 3., 2014, p. 113-127 [115]

⁶⁵N.A Fadipe., *The Sociology of The Yoruba* (Ibadan University Press, 1970) p. 216

⁶⁶K.W.J Post & M. Vickers., *Structure and Conflict in Nigeria 1960-1966* (Heinemann Educational Books, Ltd., 1973) p. 182

⁶⁷J.S Coleman., *Nigeria Background to Nationalism* (University of California Press, 1958) p.79

4.6 The Ife and the Modakeke Colonial Political Structure and Separation

Chapter three demonstrated that the political structure and the judicial structure of the Yoruba including the Ife and the Modakeke were fused in pre-colonial times with the traditional rulers playing the roles of both king and adjudicator for the people. Thus, a disruption of the judicial powers of the Yoruba traditional rulers struck a “decisive blow against the sovereignty of the Yoruba states.” This section argues that the loss of judicial sovereignty by the Yoruba rulers, in effect the Ooni of Ife, by treaties signed in the early 19th century British colonial rule meant that the Ooni could not keep the Modakeke separate from the Ife so as to resolve the conflict. The Ooni had to rely on the colonial government to keep the Modakeke from returning into the Ile-Ife.

It will be recalled that in chapter three it was stated that the Yoruba groups were engaged in wars among themselves for many decades. During this period, the traditional rulers lost their prominence in Yorubaland. They could not stop the wars that had engulfed the Yorubaland and the struggle for supremacy in the 19th century which led to the movement from monarchical rule where the right to rule was inherited⁶⁸ to purely military rule where the military warlords decided on war outside the wishes of their king.⁶⁹ Akinjogbin stated that, by 1862, militarism had overshadowed and undermined monarchy and the powers of rulers.⁷⁰ During this time period, Adepegba described the extent of the powers of the military over the rulers of the people, claiming that when there were claims of superiority among the Yoruba, they were decided in the battlefields.⁷¹

The loss of the Yoruba kings’ political powers meant that they could not settle the internal and external conflicts in Yorubaland, their words were no longer respected or taken as final. Johnson noted that the efforts of the traditional rulers to bring peace to the Yorubaland were limited at the time.⁷² As evidence of the failures of the traditional rulers to resolve the conflicts in their communities, an 18th century Yoruba ruler Adeyemi, the Alaafin of Oyo Kingdom,

⁶⁸S. Johnson., (1921) Ibid. p. 75

⁶⁹A. Akinjogbin., *War and Peace in Yoruba Land 1793-1893* (Heinemann Educational Books, Nigeria, 1998) p. 351

⁷⁰A. Akinjogbin., (1998) Ibid. p. 351

⁷¹C.O Adepegba., ‘The Descent from Oduduwa: Claims of Superiority among some Yoruba Traditional Rulers and the Arts of Ancient Ife’ *The International Journal of African Historical Studies* vol.19. no.1., 1986 p.77-92. Boston University African Studies Centre. <http://www.jstor.org/stable/218696>. Accessed 06/05/13

⁷²S. Johnson., *The History of the Yoruba from the Earliest Times to the Beginning of the British Protectorate* (George Routledge & Sons Ltd ,1921) p. 462

with the greatest distress, called out for assistance to the British colonial government in these words:

*“[w]ith all possible speed I beg that the Imperial Government...come to my help.”*⁷³

Also, the king of Iwo made a plea to the imperial government in these words:

*“Do not leave us. There is not a king in this whole country that is not in some way mixed up in this war, so there is not one who can act as mediator. We can only look to the white man to act for us in this capacity.”*⁷⁴

Those frantic words underscore the point that the Yoruba traditional rulers could not end violent conflicts in their communities, the Ife and Modakeke groups being an example of one such Yoruba community. In the case of the Ife-Modakeke conflict, attempts by the Ooni of Ife to end the conflict by separating the sub-groups in 1835 did not last long and the conflict continued.

The British colonial administration came to the rescue of the Yorubaland and made all groups sign the 1886 Treaty of Peace and the Yoruba wars ended in 1893. As gratitude to the British government, the Yoruba traditional leaders agreed to sign various treaties granting the colonial administration rights over the judicial system and lands.⁷⁵ As for the Ife, as soon as the Oyo signed a judicial agreement, the Ooni of Ife himself invited the colonial administrators to sign one with him.⁷⁶ In time, the colonial administration took over dispute resolution from the traditional leaders only leaving them with customary matters deemed not repugnant to public justice.

The year 1914 proved to be the major turning point in colonial rule when an Order in Council amalgamated the northern Protectorate of Nigeria and southern Protectorate of Nigeria under one rule: the Nigerian State.⁷⁷ The amalgamation brought together distinct people under one

⁷³ Letter sent by the Alaafin to the British Government on October 15th 1881 in S. Johnson., (1921) Ibid. p. 463

⁷⁴J. Wood to R. Lang., 10 December, 1884, CMS G3/A2/O (1885)/13 in K. Olabimtan., ‘Samuel Johnson of Yoruba Land, 1846-1901 Identity, Change and the Making of the Mission Agent’ *Africa in Development* vol. 12., 2013, p. 105.

⁷⁵The invitation of the Colonial government to help resolve the Yoruba wars also met with force by the British colonialist in getting these treaties signed and not just a form of gratitude. The 1914 annual colonial report on Nigeria noted that: “...it was the inevitable task of the early Administration to break the power of the various states [tribal states] by armed force...” see Colonial Report-Annual No. 878 Nigeria. report for 1914 presented to both the Houses of Parliament by Command of His Majesty. April 1916. Printed under the Authority of his Majesty’s Stationary Office by Barclay and Fry Ltd, The Grove Southwark Street SE. Online: http://www.libsysdigi.library.illinois.edu/tiharvest/1914/306434_1914_Opt.Pdf

⁷⁶Ooni of Ife letter to A.G Parsons 30 June, 1904; enclosure to Moseley to Colonial Office 8 July, 1904 National Archive Ibadan CSO 1/3 Vii

⁷⁷ Amalgamation of the North and South of Nigeria Protectorate was by the Nigeria Protectorate Order-In-Council 1913.

government without much consideration for their complex pluralities.⁷⁸ The 1914 annual report on Nigeria acknowledged that before the amalgamation of 1914, the various groups, especially in the north of Nigeria, were under the law courts of traditional rulers who were impartial. However, the report continued to state that indirect rule was set up in:

*“...the recognition of the fact that native rulers were not fitted for independent government, but that under supervision by a political staff...they could be educated to conduct their own affairs and to control a reorganized Native Executive and Judiciary”*⁷⁹

The above statement reveals that the colonialists did not deem the groups fit enough to manage their affairs. Since the natives were not deemed qualified to handle executive and judicial functions, the judicial system underwent changes in 1914 with a single supreme court hearing tribal disputes, land and fishery rights.⁸⁰ Newly revamped native courts were no longer under the traditional rulers but the report noted that the: “...native courts were presided by District officer... (an alien to the district on a low salary) and the interpreter.”⁸¹

The district officer took over the courts from traditional rulers and in effect removed their powers of dispute resolution in contrast with how it truly was in pre-colonial times when the rulers were the highest court of appeal.⁸² Also, the Supreme Court Ordinance 1945 made the application of customary laws subject to the repugnancy test where customary laws were only applicable when they were not deemed by the court to be repugnant to natural justice, equity and good conscience.⁸³

Different courts came to be operational in the late 1800s. Among these were the Petty Debt Court (1863), the Court of Requests (1870) and the Court of Divorce and Matrimonial Causes (1872). By 1876, the Supreme Court had replaced all other courts. Several Ordinances extended the jurisdiction of the Supreme Court to the Western part of Nigeria. A notable example is the Ife Jurisdiction Ordinance no. 20, 1904. However overall, it was the

⁷⁸ Osutokun (1979) p. 98-99 in A.O Oluwatobi., ‘The Politics of States and Local Government Creation in Nigeria: An Appraisal’ *European Journal of Sustainable Development* vol. 2., 2013, p. 155-174 [156]

⁷⁹ Colonial Report-Annual No. 878 Nigeria. Ibid. p. 37

⁸⁰ Colonial Report-Annual No. 878 Nigeria. Op cit. p. 40

⁸¹ Colonial Report-Annual No. 878 Nigeria. Report for 1914 Presented to both The Houses of Parliament by Command of His Majesty. April 1916. Printed under the Authority of His Majesty’s Stationary Office by Barclay and Fry Ltd, The Grove Southwark Street SE. Online: http://www.libsysdigi.library.illinois.edu/liharvest/1914/306434_1914_Opt.Pdf . p. 41

⁸² See Discussions in Chapter 3.6

⁸³Section 17 (1) of the Supreme Court Ordinance, 1945 Chap 211 Laws of the federation of Nigeria containing Ordinances of Nigeria vol vi p. 202-236.

Jurisdiction of Courts Extension (Protectorate) Ordinance no. 2, 1915 that extended the Supreme Court jurisdiction to all Yorubaland.⁸⁴ Both the old and the new courts were a far cry from the native chiefs or the king's decisions in most Nigerian tribes.

Customary law was the applicable law of the native courts established in 1900 by Ordinance No. 9 of 1900. Appeals lay from the native courts to the magistrate courts set up by the British administration. Administrative officers of the courts were all not educated but in 1957 the Customary Courts Law No. 26 abolished the native courts and set up customary courts with entirely different structures.⁸⁵ The customary courts were presided over by presidents or chairmen when more than one sat. The laws used were the customary laws of the people provided they were not regarded as repugnant to natural justice, equity and good conscience. The courts had narrowed natural justice to situations that were extreme and oppressive to the common man. For example, in *Charlie King Amachree v Daniel Kallio and others*⁸⁶ the court held that the customary law that gave an exclusive right to a person over a great navigable river was contrary to natural justice, equity and a good conscience and thus must be held unenforceable. This turn of events meant that the peoples' customary laws became outdated and subject to colonial acceptance as a result, the native groups could not be said to have any autonomy over their conflict resolution using the accepted rules.

Although the 1914 Native Authority Ordinance placed the native courts under the authority of the native chiefs, these chiefs were supervised by the District Officer appointed by the Colonial authority. The Ordinance also gave powers to the District Officer to override the decisions of the chiefs and even to order a retrial.⁸⁷ As a result, as demonstrated in 4.3 the Ooni's wish to keep the Modakeke separate was not granted, the Modakeke came back to the Ife in the 1920's and the conflict continued. Thus, the loss of the absolute judicial powers of the traditional rulers was a blow to the sovereignty of the people. As noted by Adewoye, "[i]n Yoruba society, as most other African societies, the ultimate power to redress grievances and thereby maintain peace and order is, like sovereignty itself, indivisible. The judicial agreements sought to divide that power and consequently undermined the sovereignty of the states."⁸⁸ This was corroborated by the contemporary Modakeke and Ife people during the

⁸⁴T.A. Aguda., *Brief Historical Development of the Western Nigeria Legal System* in A. Adedeji., *An Introduction to Western Nigeria: Its People, Culture and System of Government* (Institute of Administration, University of Ife Nigeria, 1966) p. 43

⁸⁵A. Adedeji., (1966) *Ibid.* p. 42

⁸⁶*Charlie King Amachree v Daniel Kallio* (1913) 2 Nigeria Law Report. p. 108

⁸⁷Native Authority Ordinance, 1914

⁸⁸O. Adewoye., 'The Judicial Agreements in Yorubaland 1904-1908' *The Journal of African History* vol. 12. no. 4, 1971, p. 607-627[623] Cambridge University Press

interviews in 2014 in which among the Ife 31 out of the 37 responses to the question “Did the traditional rulers retain their political and judicial powers during the colonial times?” were negative. A similar response was derived from the Modakeke interviews as 33 out of 37 responded that the traditional rulers lost their political and judicial powers in the colonial era. It follows, therefore, that any attempt to separate the groups by the traditional rulers was not possible during the colonial era because they lacked such power to enforce the separation. Neither did the colonial administration succeed in keeping the groups separate as seen in the discussion on the causes of the colonial conflict in 4.3 above, because their main concern was the furtherance of their commercial interest not on the people and their conflict.⁸⁹

In addition, Vaughan noted that the colonial administration created inconsistencies in the Yoruba political structure by elevating some traditional rulers and undermining others. For example, he noted that Captain William Ross a district commissioner pre-colonial Oyo “worked ceaselessly to advance the authority and prestige of the Alaafin, whom he considered the legitimate ruler of the Yoruba people”⁹⁰ The effect of indirect rule by the colonial administration according to Vaughan is that it “...failed to construct a stable mechanism for mediating conflict among contending political forces and interests”⁹¹ in Yorubaland. Therefore, attempts of the colonial administration to keep the groups separate were not followed through and the people remained in conflict while the colonial administration took care of their own interests.

In the interviews conducted among contemporary Ife and Modakeke, the nature of the colonial impact on the Ife-Modakeke conflict was one of the questions directed to participants. Their perceptions of colonial rule on the autonomy of their rulers in relation to dispute resolution reveals that both groups recognised the colonial administration to have reduced the political powers of their kings and chiefs and in effect their dispute resolution abilities. 33 and 34 out of the 37 participants of the Ife and the Modakeke respectively answered that the traditional rulers had lost their judicial autonomy during colonial times and thus the continuation of the conflict and the inability of any of the traditional rulers then to separate the groups.

⁸⁹Adewoye noted that the judicial agreements were a crucial element in establishing British authority in Yorubaland. See O. Adewoye., (1971) Ibid. p. 621

⁹⁰O. Vaughan., ‘Chieftaincy Politics and Communal Identity in Western Nigeria 1893-1951’ *The Journal of African History* vol. 44 no. 2, 2003, p. 283-302 [290] See also, Elevation of Alaafin over the Ooni of Ife in C.O Adepegba., ‘The Descent from Oduduwa: Claims of Superiority Among Some Yoruba Traditional Rulers and The Arts of Ancient Ife’ *The International Journal of African Historical Studies* vol. 19, no. 1, p. 77-92[79] Boston University African Studies Centre. Online: <http://www.jstor.org/stable/218696>. Accessed 06/05/13.

⁹¹O. Vaughan., (2003) Ibid. p. 288

Furthermore, the amalgamation of the north and south of Nigeria in 1914 created a new political unit and groups began to identify themselves not just with tribal allegiances but as Nigerians, creating dual loyalties that were led by the educated elites.⁹² In effect, cultural identities transcended kinship and traditional political identifications.⁹³ This suggests that sole adherence to traditional norms became destructive in the resolution of the conflict as both groups became Nigerians not just Yoruba with dual loyalties.

In the political sphere, the differentiation between natives and settlers continued in colonial Nigeria. Akanji observed that all the colonial constitutions from 1922 to 1960 in Nigeria had elements that fostered the native-settler relationships along political lines.⁹⁴ The Federal structure of the country was laid by the Constitution establishing three Regional Houses of Assembly in the north, east and west. The regionalization policy led to the creation of three majority groups: the Hausa in the North, the Yoruba in the West and the Igbo in the East. Within these groups lay minorities and still further minorities within them.⁹⁵ The minority groups (tribes) started to clamour for the creation of more states and Local Government areas to alleviate the discrimination suffered by the minority tribes.⁹⁶

Below is a map showing the three Regions created by the 1946 Constitution that created minority problems of discrimination.⁹⁷

⁹²M. Crowder., *The Story of Nigeria* (Faber and Faber Ltd.) p. 207

⁹³K.W.J Post & M. Vickers., *Structure and Conflict in Nigeria 1960-1966* (Heinemann Educational Books Ltd, 1973) p. 23

⁹⁴ O.O Akanji., 'The Problem of Belonging: The Identity Question and the Dilemma of Nation-building in Nigeria' *African Identities*, (Routledge Taylor & Francis Group) vol. 9. no. 2., May 2010. P. 117-132 [118, 121]

⁹⁵ Chapter Five examines in more details the impact of the majority-minority problems raised by the Regionalism created by the 1946 Constitution had on the Ife-Modakeke conflict

⁹⁶ B. Smith., 'Federal-State Relations in Nigeria' *African Affairs*, (Oxford University Press on Behalf of The Royal African Society) vol. 80. no. 320., July 1981, p. 355-378 [356]

⁹⁷ Map of Nigeria showing the Regions and Provinces 1954. British Library Maps 65267(18).



Map 2 1954 colonial map showing the three regions, with part of Yorubaland represented by the Western Region, and Ife as the smaller Oyo

The Map above shows the three Regions created by the 1946 Constitution. Within each Region were minority groups.

Akanji noted that the 1946 constitution introduced regionalisation thus marginalising the minority groups in Nigeria and making politics toe the line of sectionalism. Thus by 1959 the three major political parties represented each of the major tribes in Nigeria. The Action Group representing the Yoruba, the Northern People's Congress (NPC) representing the Hausa-Fulanis in the North and the National Council of Nigeria and the Cameroons (NCNC) representing the Igbos.⁹⁸In addition, Bach noted that the regionalisation of the civil service in 1954 also fostered native-settler relationships in the colonial era where a settler was defined

⁹⁸O.O. Akanji., 'The Problem of Belonging: The Identity Question and the Dilemma of Nation-Building in Nigeria' *African Identities* (Routledge Taylor & Francis Group) vol. 9. no. 2., May 2011. p. 117-132 [118, 121]

as one who was not a member of a native community living in the area of a native authority.⁹⁹ The introduction of indirect rule by the colonial government fostered native-settler relationships by retaining the pre-colonial traditional discrimination of settlers. Thus, Graff noted that the colonial government fostered separate identities in Nigeria.¹⁰⁰ The continued segregation between settlers and natives, as reflected in the modern State system of Federal character in Nigeria, is discussed in detail in the next chapter.

4.7 Conclusion

In the final analysis, this chapter has demonstrated that the social, economic and political structure of the colonial Ife and the Modakeke made separation difficult as a mechanism for resolving the conflict. This was in part because the colonial government continued the discriminatory land tenure system of the people. This section proves that to separate the groups it is thus necessary to separate the norms of the people from their dispute resolution mechanism. By so doing the thesis has answered the second research sub-question. To prove that the two conflicts during the colonial period were tied to the non-enforcement of the separation of the groups in colonial times, this chapter demonstrated that land tenure in the colonial era remained largely communal but with the increased value of land came the further breakdown of the relationship between those considered the natives and the settlers and this fuelled the continuation of the conflict. Also, the native/settler relationship meant that the Modakeke continued to pay the Ishakole as land rent in colonial times much to their displeasure. Furthermore, evidence and examples from colonial times were provided of the economic impact on the conflict demonstrating the consequences of not separating the groups in times of economic boom resulting from agriculture and oil revenue. The political structure of the groups in colonial times also reveals that indirect rule elevated the Oyo over the other Yoruba groups thereby creating power struggles which affected the Ife and Modakeke groups. These examples identified the problems of not separating both groups with the changing face of the economy and political structure in Yorubaland.

In the next chapter, the modern State's social, economic and political structure and its impact on the conflict and separation of the groups shall be analysed.

2. D. Bach., 'Indigeneity, Ethnicity and Federalism' in L. Diamond, A. Kirk-Greene & Oyediran (eds.) *Transition Without End: Nigerian Politics and Civil Society Under Babangida* (Ibadan: Vantage Publishers, 1997) p. 370-392 [376]

¹⁰⁰ D.G Graff., *The Nigerian State: Political Economy, State and Political System in the Post-colonial era* (London: James Currey, 1988) p.

5. CHAPTER FIVE: THE IMPACT OF THE STRUCTURE OF THE NIGERIAN FEDERAL STATE ON THE IFE-MODAKEKE CONFLICT AND THE POSSIBILITY OF RESOLUTION BY SEPARATION

5.1 Introduction

This chapter examines three issues: first, the impact of the social, economic and political structure of the modern Nigerian State on the Ife-Modakeke conflict; second, the State's current inability to resolve that conflict; and third, the solution to the conflict by economic separation of the Modakeke from the Ife. In order to do this, the chapter first sets out some details about past conflict between the Ife-Modakeke and the peoples' understandings of the Federal State's role in ending the conflict. Ultimately, the chapter makes three arguments. The first argument in this chapter is that the Federal State has intervened inadequately in the Ife-Modakeke conflict and that the modern structure of the Federal State of Nigeria contributes to the continuation of the conflict by sustaining oppressive ancient group norms. The second argument is that the Federal State, by means of its inefficient revenue allocation policies and the principles of exclusion in the Constitution, has not only rendered itself unable to resolve the dispute by economic and political intervention, it has enabled the continuation of the conflict. The third argument is that the Federal State has the power to end the conflict by following its precedence of devolution of power by state creation in managing group conflict, but at a lower Local Government level. Based on the theory of separation and the history of the Ife and the Modakeke and their conflict, the solution proposed is that the two groups should be separated from each other economically and politically. The routes by which this can be justified are explored below and in later chapters.

The current Nigerian Constitution (and, previous versions) underpins the State's failures with regard to the Ife-Modakeke conflict. First, the Constitution creates or continues dual citizenship identities and loyalties: loyalty to the State, and ethnic group loyalty. Second, the Constitution provides for political and economic subdivision of Nigeria into states and local authorities with economic benefits cascaded from central government to local communities. Third, the political structure of the Federal State also provides precedence of conflict

resolution in Nigeria by the Federal State sharing powers with the states¹ in order to curb majority-minority conflicts. Therefore, the Federal State is in a position to effect conflict resolution at the grassroots by enabling states to share powers with the Local Governments. In so doing, the Federal State can resolve the Ife-Modakeke conflict by accenting to Local Governments created by states and funding such Local Governments.

The impact of the modern State on the Ife-Modakeke conflict and dispute resolution and the feasibility of a resolution of the Ife-Modakeke conflict through separation, is assessed by answering the third research sub-question: “to what extent does the social, economic and political structure of the modern Nigerian State affect the Ife-Modakeke conflict and resolution by separation of the groups?” To answer the research sub-question with a coherent analysis of the three issues raised, the chapter starts with a time-line for the events analysed. Following the time-line provided, the chapter examines the violent clashes between the Ife and the Modakeke groups within the time-line provided to determine the triggers to the violent clashes in modern times and the feasibility of a solution by economic and political separation of the groups.

5.2 The End of Colonialism and the Legislation of the Nigerian State

This sub-section demonstrates legislation which is analysed in examining the impact of the social, economic and political structure of the Ife and the Modakeke groups in the modern State on their conflict. The end of colonialism in Nigeria is the end of the British rule in Nigeria. The end of the British rule and Nigerian independence occurred in October, 1960.²

Section 1(1) of Britain’s Nigeria Independence Act, 1960 provides that:

*On the first day of October, nineteen hundred and sixty (in this Act referred to as “the appointed day”), the Colony and the Protectorate as respectively defined by the Nigeria (Constitution) Orders in Council, 1954-1960, shall together constitute part of Her Majesty’s dominions under the name Nigeria.*³

¹ As described in the definition session in the beginning of the thesis, states beginning with small letter ‘s’ refers to the second tier of government in Nigeria while State beginning with capital letter ‘S’ refers to the Sovereign States not organs of a State. See p. xx

² The History of Nigeria in History World. Available Online <http://www.historyworld.net/wrldhis/Plaintexthistories.asp?Historyid=Ad41>

³The Nigerian Independence Act, 1960 Chapter 55. 29th July, 1960 Available Online: http://www.legislation.gov.uk/ukpga/1960/55/pdfs/ukpga_19600055_en.pdf

Section 3(1) of the same statute also clearly provides that:

Notwithstanding anything in the Interpretation Act, 1889, the expression “Colony” in any Act of the Parliament of the United Kingdom passed on or after the appointed day shall not include Nigeria or any part thereof.

The above provisions indicates that although Nigeria became independent from British rule on 1 October 1960, it only became a Republic in 1963 by virtue of section 2 of Nigeria’s 1963 Republican Constitution.⁴ That Constitution removed the Queen of England as the Head of State of the Federation, and the executive powers were then vested in the Nigerian President.⁵ Although, Nigeria became a Republic in 1963, on the international level, Nigeria became a sovereign State on 1 October, 1960.⁶ It is important to mention when Nigeria became a Republic because some Nigerians still considered the period between 1960 and 1963 to be a colonial period, therefore placing the birth of the Nigerian State as sovereign, in 1963 rather than 1960. For example, an academic, Olaide, noted that the 1963 Constitution emerged mainly to free Nigerians from colonialism that was still inherent in the 1960 Independent Constitution.⁷ However, in this thesis, the impact of the modern State of Nigeria will be measured from 1st October, 1960 because that was when Nigeria officially gained her independence from British rule. The composition of the modern Nigerian State is provided below to aid an understanding of the impact of the modern State in the prevention and resolution of the Ife-Modakeke conflict.

⁴ The Constitution of the Federal Republic of Nigeria, 1963. Herein after called the 1963 Constitution

⁵ Section 84 of the 1963 Constitution of Nigeria

⁶ Nigeria was admitted into the United Nations as a Sovereign State 7th October, 1960. See the list of United Nations Member States and dates of Admission Online: <http://www.un.org/en/member-states/index.html>

⁷ I.A Olaide., ‘Towards the People’s Constitution in Nigeria. Journal of Law and Diplomacy’ vol. 7. no. 2., 2010, p. 87-93 [89]

5.3 The Relationship Between the Nigerian State and the Ife and the Modakeke

The most recent Constitution of Nigeria is the 1999 Constitution. Section 2(1) of the 1999 Constitution provides that: “Nigeria is one indivisible and indissoluble sovereign State to be known as the Federal Republic of Nigeria.”⁸

Section 2(2) of the 1999 Constitution states that: “Nigeria shall be a Federation consisting of states and a Federal Capital Territory.”

A federation emerges in either of two ways, one; the coming together of previous independent States as one single State (e.g. Canada and the United States) or, two; by devolution of powers between levels of political authorities (e.g. Nigeria and India).⁹ Nigeria as a Federal State is made up of diverse peoples within three sub-structures, namely: the Federal capital; 36 states; and 768 Local Government Areas. As well as being Nigerians, these diverse communities maintain their respective local group identities within the federalism. As rightly pointed out by Chibueze, “[a] federal system of government often arises from the desire of the peoples to form a union without necessarily losing their identities.”¹⁰ The federal State of Nigeria dispenses its obligations towards the thirty-six states and the numerous diverse local communities within local authorities through constitutionally guaranteed rights provided for in Chapter IV of the Constitution. These are fundamental human rights in the 1999 Constitution.¹¹ It will be argued that it is the denial of economic human rights to the Modakeke which needs to be corrected so as to provide them with the independence which is at the heart of the solution to the conflict: economic separation from the Ife. The Ife and the Modakeke belong to one of the 36 states of Nigeria- the Osun state which was carved out of old Oyo state in 1991.¹² The Osun State covers approximately 14,875sq kms with more than two hundred major towns and villages.¹³ Ife, incorporating Modakeke, is one of the major towns of Osun state.

⁸The Constitution of the Federal Republic of Nigeria, 1999 Cap. 23 Laws of The Federation of Nigeria 2004. Available Online: www.Nigerstate.Gov.Ng/Epubl/Niger-Constituion-1999.Pdf

⁹O. Aboyade., *Integrated Economies: A Study of Developing Economies* (London England: ELBS & Addison-Wesley Publishers, 1985)

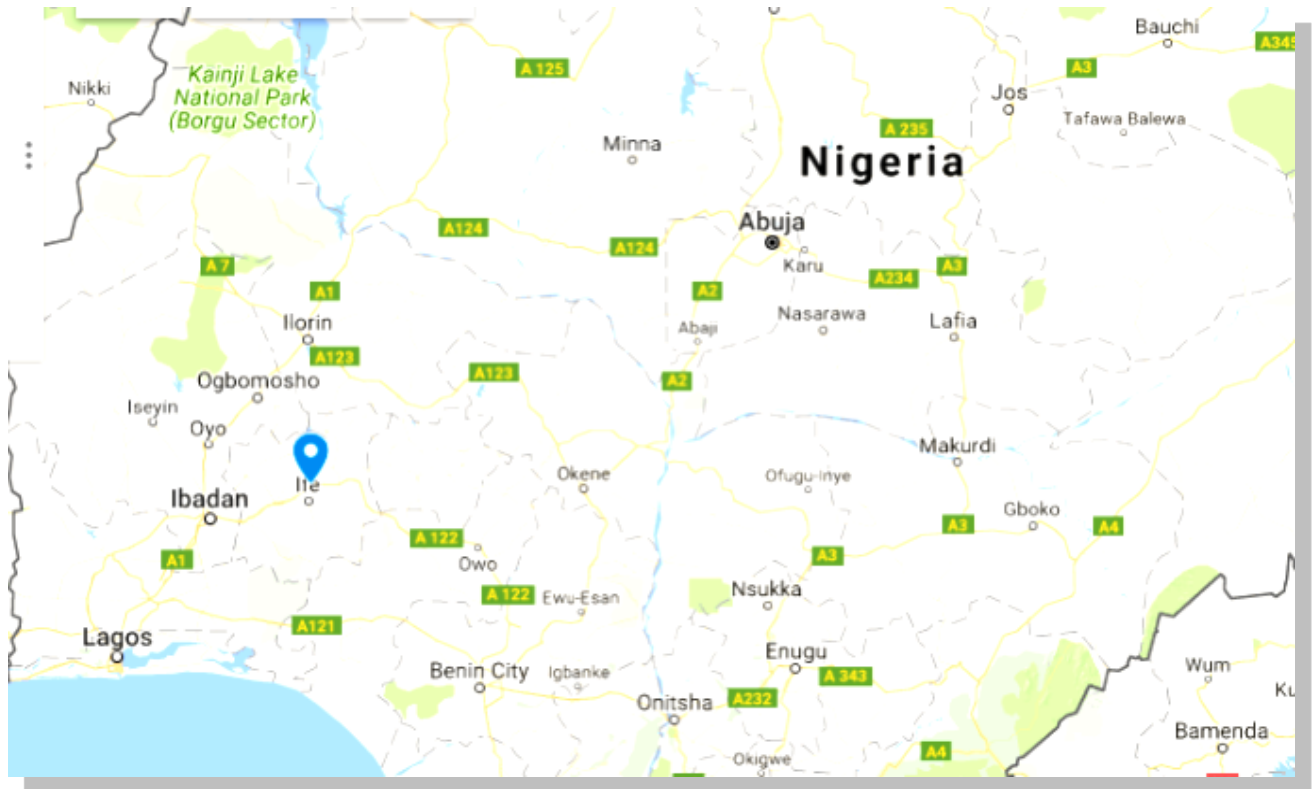
¹⁰I.C Chibueze., ‘Politics of Revenue Allocation in Nigeria: A Reconsideration of some Contending Issues’ *Sacha Journal of Policy a Strategic Studies* vol. 1. no.1, 2011, p.121-136 [122]

¹¹The Constitution of the Federal Republic of Nigeria, 1999. Ibid

¹²‘Osun State History: Website of Osun state Nigeria’ Online: <http://Osun.Gov.Ng/About/History/>

¹³‘Osun State: Geography’ Website of Osun state Nigeria [Http://Osun.Gov.Ng/About/Geography](http://Osun.Gov.Ng/About/Geography)

Below is a map of Nigeria showing the location of Ife in Nigeria.¹⁴



Map 3 Map 3 Undated, present-day map of Nigeria showing Ile-Ife in Osun State (Google authorised map)

5.4 The Relationship Between the Ife and the Modakeke in Modern Nigeria

Ife is bounded by the Ogun, Kwara, Oyo, Ondo and Ekiti states of Nigeria in the South, North, West and East of Nigeria respectively.¹⁵ It lies within the high forest zone of Southern Nigeria, 7° 28 north of the Equator and 4° 34 east of Greenwich at a height of 800 feet above sea level.¹⁶ While Modakeke is 241 metres above sea level with Latitude 7: 23 North of the Equator and Longitude 4: 16 East of Greenwich.¹⁷ The population of Ife is set at 529, 905¹⁸ and

¹⁴Map created by the researcher from Google my map. See Appendix 5 containing email from Google permitting the researcher to use Google my maps for her thesis.

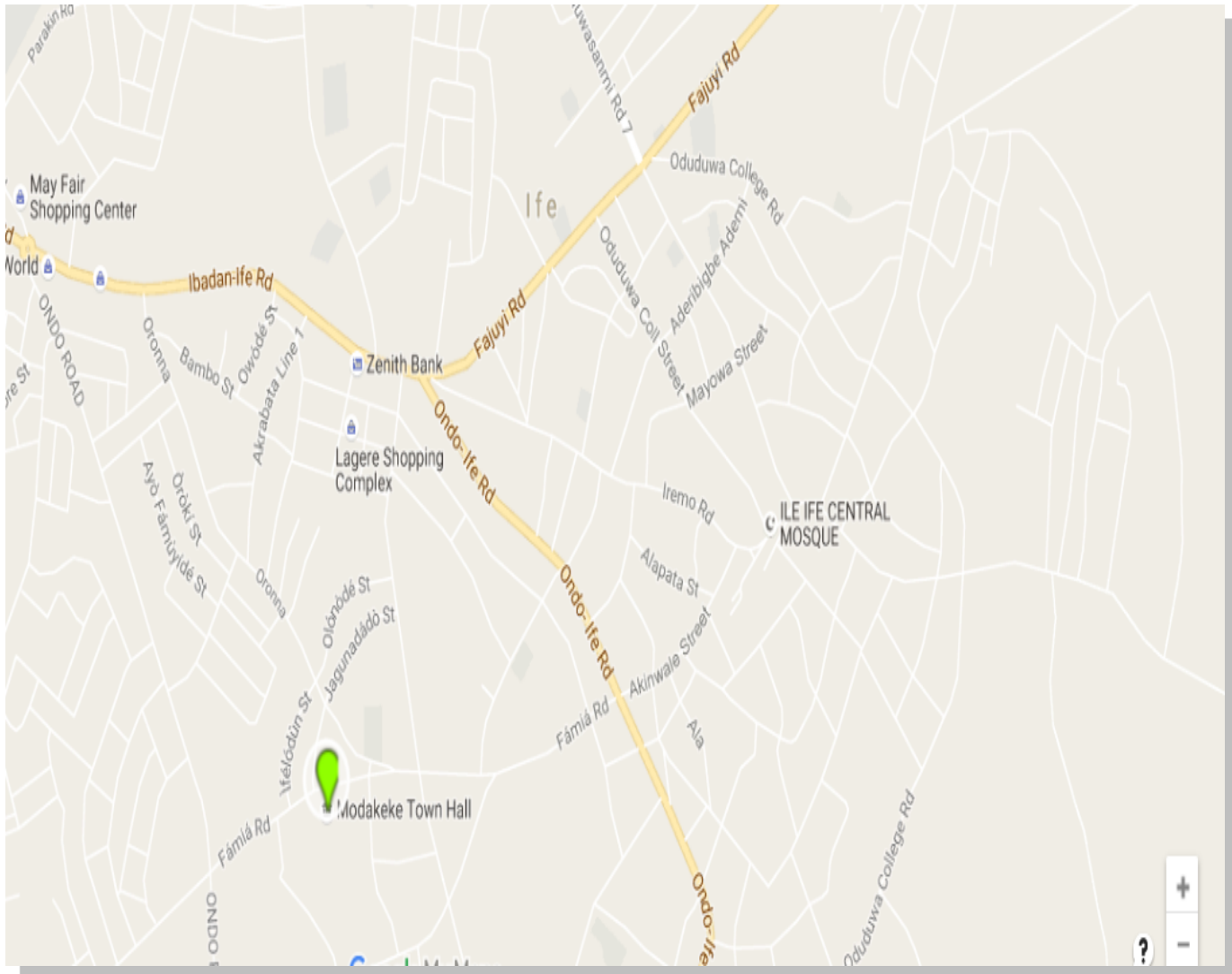
¹⁵A. Oyewole & J. Lucas., *Historical Dictionary of Nigeria* (2nd edition. Africa Historical Dictionaries, no.40, The Scarecrow Press. Inc. Lanham, Maryland and London) p. 424

¹⁶Statistics in O.A Ajala & A.M Olayiwola., 'An Assessment of the Growth of Ile-Ife Osun State Nigeria using Multi-Temporal Imageries' *Journal of Geography and Geology* vol. 5. no.1, 2013, p. 45

¹⁷<http://Ng.Geoview.Info/Modakeke.2330028>

¹⁸National Population Commission Census 2006. <http://www.Population.Gov.Ng/Index.Php/Publications/140-Population-Distribution-By-Localgovernment-Statistics>

the population of Modakeke is set at approximately 113,000.¹⁹ The distance between Ife and Modakeke is 21 miles, from the centre of Ife to the centre of Modakeke and 33.79 in kilometres which translate to 0.43 hours (26 minutes) journey when driving at 96 km/h.²⁰ Below is a map of Ife showing some Ife and Modakeke localities.²¹



Map 4 Undated, part of a present-day map showing an approximation of the relationship between Ife and Modakeke locations in Ile-Ife (Google authorised map)

¹⁹<http://Ng.Geoview.Info/Modakeke.2330028>

²⁰<http://Www.Distance-Calculator.Co.Uk/Miles-From-Ife-Nigeria-To-Modakeke-Nigeria.Htm>

²¹Map created by the researcher from Google my map. See Appendix 6 containing email from Google permitting the researcher to use Google my maps for her thesis.

Johnson has noted that only a small stream separates the Ife from the Modakeke.²² Apart from living in close proximity, both groups have intermarried over the years.²³ Contemporary Ife and Modakeke participants in the interviews conducted in 2014 agreed that the Ife and the Modakeke groups are mixed. 45 of the 50 Ife participants stated that the Ife is mixed with the Modakeke while 39 of the 42 Modakeke participants agreed that the Modakeke is mixed with the Ife.²⁴ When asked: Is the Modakeke people mixed with Ife people? Do they live mixed together? An Ife participant stated:

“Modakeke lives with Ife and Ife lives with Modakeke because all the boundaries were owned by Ife. Modakeke people were given land by Ife. When asked how the mixing came about? His reply was: “Through marriage.”²⁵ Some of the Ife participants noted however that at present the Ife and the Modakeke are sceptical about intermarriage with the Modakeke.²⁶

The response from the Modakeke was similar to that of the Ife participants. For example, when asked the question: Is the Modakeke mixed with the Ife? If yes, how did the mixing come about? A Modakeke participant responded: Yes, as a result of marriage.²⁷

The question is, does intermarriage make Modakeke and Ife the same community? Empirical work carried out in both groups does not show that the high rate of intermarriage between the two groups has changed the feelings of separateness. The majority of the Ife and the Modakeke participants (in fact, 90% of both the Ife and the Modakeke participants) stated that they were not the same people.²⁸ During the interviews conducted by the researcher in June/July 2014, 45 of 50 of the Ife participants noted that the Ife-Modakeke are mixed but they do not consider themselves to be the same group, while 39 of the 42 Modakeke participants said that they were mixed with the Ife but not of the same group.²⁹ An earlier study by Asiyanbola also demonstrated that more than 40% (33% and 13.6% respectively) of the children of intermarriage between both communities are viewed by both the Ife and the

²²S. Johnson., *The History of the Yoruba from the Earliest Times to the Beginning of the British Protectorate* (George Routledge & Sons Ltd ,1921) p. 477

²³R.A Asiyanbola., ‘Identity Issues in Urban Ethno-Communal Conflict in Africa: An Empirical Study of Ife-Modakeke Crisis in Nigeria’ *African Sociological Review* vol. 13. no. p. 92. Johnson is not referring to land ownership; but if the Modakeke’s argument (discussed below) is successful, the stream would probably become the territorial boundary between the Ife and the Modakeke.

²⁴ See Ife and Modakeke coding in appendix 13 and 14 respectively

²⁵ Ife interview IMA 9

²⁶ Ife interviews IMA 9 and IMA 14

²⁷ Modakeke Interview MMA 1

²⁸ See interview coding of the Ife and the Modakeke in appendix 13 and 14 respectively

²⁹See Coding from interviews in Appendix 13 and 14 for the Ife and the Modakeke respectively

Modakeke as either strangers or enemies.³⁰ Despite their similarities, the Ife and the Modakeke has been locked in violent conflict for over a century. Although, the last violence between the Ife and the Modakeke was in the year 2000, this long period of peace should not be construed as permanent peace between the communities. As soon as a window of opportunity presents itself, the age-old bitterness arises in the form of violence. From the interviews conducted by this researcher among the Ife and the Modakeke in 2014, it was found that 44% and 57% of the Ife and the Modakeke respectfully thought that the conflict was still active.³¹ In addition, as recently as the years 2008³² and 2014,³³ the Nations Newspaper of Nigeria reported that the Modakeke community were still angry because the Ife had not allowed the Modakeke to have access to farming lands (the Ife claim that the lands are theirs while the Modakeke insist they have been farming those lands for a long time) since the year 2000.³⁴ The report stated that the investigation by the Nations Newspaper revealed that “the Ife had planted their own people and installed Baales (village heads) on [the] farm lands [of the Modakeke] and found it difficult to quit.”³⁵ There has been no change since 2014 therefore a fresh bout of violence is probable, making government intervention by addressing rights relating to land use and the status of Modakeke in Ife more urgent now than ever before. Apparently, although the Ife wants the Modakeke to remain politically and economically part of the Ife, when it comes to land use, the Ife do not want the Modakeke to make use of Ife land occupied by the Modakeke for their own economic sustenance. To demonstrate the urgency of separating the groups economically and politically, the next section examines in more detail the four episodes of violent clashes between the two groups in the years from independence in 1960 to the present time 2018, while Identifying the triggers to the violent confrontations.³⁶

5.5 History of Ife-Modakeke Conflict: 1960-the Year 2000

As mentioned in the background to the thesis in chapter one, there have been seven violent clashes so far between the Ife and the Modakeke. Four of these clashes have taken place after

³⁰R.A Asiyanbola., (2009) Ibid. p. 92

³¹ See coding of Ife and Modakeke responses in Appendix 14 and 15 respectively. The coding is presented in percentages here

³²The Nations Newspaper “Modakeke Community Still in Pains” 30th March, 2008. Online: <http://www.thenationonline.net/Archivez/Tblnews-Detail.Php?id=47865>

³³The Punch Newspaper 20 October, 2014: “Fresh Crisis Between the Ife, Modakeke” Online: <http://www.punchng.com/news/fresh-crisis-brews-between-ife-modakeke>.

³⁴The Nations Newspaper “Modakeke Community Still in Pains” 30th March, 2008. Ibid

³⁵The Nations Newspaper “Modakeke Community Still in Pains” 30th March, 2008. Op cit

³⁶ The pre-colonial and colonial conflict between the Ife and Modakeke is discussed in chapter 3 and 4 of the thesis respectively

the independence of Nigeria in 1960. A consideration of the violent conflict reveals that with the passing of time and different political eras, the violence has become more frequent, with similar triggers each time linked to their origins, religious differences and clash of cultural norms of the groups within the modern State's political and legal practices. The modern violence between the two groups also reveals similar triggers, but in recent years they are more tailored to internal self-determination in the form of a separate Local Government for the Modakeke.

Attempts by the government of Nigeria both at Federal and state levels to resolve the Ife-Modakeke conflict have been inspired by the Federal State and, unlike the pre-colonial and colonial eras, State attempts at resolution have not involved physical separation of the groups from each other. There have been two post-independence approaches to the Ife-Modakeke conflict: one has been military intervention to stop violence, and the other has been the setting up of several formal committees to suggest a solution for resolution of the conflict.

The interviews conducted in 2014 by this researcher support the fact that the modern State has intervened to attempt to resolve the Ife-Modakeke conflict. As many as 92% of the Ife and 95% of the Modakeke participants stated that the government intervened to resolve the conflict and end the violence during the clashes in the modern era. Notably, however, the most pronounced method of intervention by the government, as related by the participants in both groups, has been military intervention. The answer to the interview question of how the fighting was contained or stopped was met with answers from all age groups of both the Ife and the Modakeke participants pointing mainly to government military intervention and a few committees set up by the government to look into the causes of the violence and to make recommendations for conflict resolution. An elderly Ife participant clearly notated that: "It was the then President Obasanjo who settled it by bringing in soldiers who took the ringleaders from both sides away to Abuja. The Modakeke ringleaders were forced to sign that Modakeke and Ife are one (Modakeke Ile-Ife)."³⁷ Also, a middle-aged Ife participant noted: "[t]he government of President Obasanjo sent troops to stop the fighting."³⁸ In addition, a young Ife participant noted that: "[t]he government sent delegates to discuss the conflict

³⁷Ife interview IAM1 in transcript in a separate document

³⁸Ife Interview IMF39

with elders from both Ife and Modakeke and the fighting stopped.”³⁹ Modakeke responses were similar along all three age groups.⁴⁰

An elderly female Modakeke participant responded that: the “[g]overnment bring soldiers and police.”⁴¹ Also, a young adult gave a similar response when she stated that: [t]he government “always send in the police men to restore peace”⁴² A middle aged man from Modakeke stated that:

“[t]here were a series of committees. At the state (it started at the state level), the state government setup a committee...They were about 10 or 11 in the committee so they invited us. And it was at that time that the crises were at the peak around 1997, 98 or there about. There were crises, the fighting was still raging. After some time that committee collapsed. There were other committees by the state. They set up a committee headed by Olabode George, so at the end of the day when they wrote the report, they presented it to the Obasanjo as the president....”⁴³

The responses above demonstrate that the government intervened both militarily and by setting up committees. The Ife and Modakeke participants did not believe this was adequate to resolve their conflict. Of those who responded to the question: would you recommend government intervention as a method to resolve the conflict? 46 % of the Ife participants said Yes, while 50% said No with the remaining 4% saying it depends on the situation at the time. The Modakeke on the other hand, displayed stronger feelings of rejection of government intervention methods in the conflict. 31 % of the Modakeke participants answered that they would recommend government intervention, while 62% said they would not do so. The remaining 7% of the participants said it depended on the situation at the time. Perhaps the Modakeke do not feel supported by the government in times of crisis. A Modakeke participant who was a member of the Central Modakeke Peace Advocacy Committee set up in 1999/2000 by the state government noted that: “[t]he government of the day has uppermost power over us as regards Ife because Ife are influential.”⁴⁴ Also, complaining of being marginalised by the government, a Modakeke participant lamented: “[s]ince 1977 Modakeke has remained as

³⁹Ife Interview IYAF38

⁴⁰Coding for the three age-groups are contained in a separate document lodged with the University of Westminster

⁴¹Modakeke interview MAF 42

⁴²Modakeke Interview MYA 40

⁴³Modakeke interview MMA 7

⁴⁴Modakeke Interview MMA 8

3 wards. There is a neighbouring town called Ipetumodu that had 3 now they have 7 wards while Ife has 10. We remain the same, we are marginalised.”⁴⁵

From the interviews conducted among the Ife and the Modakeke in 2014, it can be safely argued that the Federal government’s use of military intervention was not sufficient in resolving the Ife-Modakeke conflict. This is because, as will be seen from the discussion below of the four violent episodes between the groups in modern Nigeria, the root problems remained among the people after every military intervention and meetings of committees which were established to look into each violent clash between the groups. The discussions in this chapter, however, provide evidence for the argument for economic and political separation of these two groups in order to resolve the root problems of the Ife-Modakeke conflict.

5.5.1 The 1981 Violence

As earlier mentioned in chapter 4 in section 4.3, the colonial era only saw two violent clashes between the Ife and the Modakeke between 1882 to 1909 and 1946 to 1949⁴⁶ essentially because the colonial government did not initially change much among the Yoruba groups. The end of the colonial era in 1960 only led to democratic rule for a short period as the military took over the rulership of the newly independent Nigerian State in 1966 and lasted up to 1979. Most likely the instability of the country at that early stage and coupled with the effect of the Nigerian civil war (July 1967 to January 1970) caused the Ife and the Modakeke not to go into violent confrontations until 1981.

The first of the four post-independence violent clashes between the Ife and the Modakeke was in 1981. The 1981 violence was preceded by the refusal of the Federal and state governments in Nigeria to grant the request of the Modakeke for a separate Local Government from the Ife in 1960.⁴⁷ In 1978, the Federal Military Government partitioned the Oranmiyan Local Government of Ife-Modakeke into three Federal constituencies namely; the Oranmiyan South, Oranmiyan Central and Oranmiyan North.⁴⁸ The Oranmiyan North constituency was comprised of the Modakeke, while the South and Central constituencies were comprised

⁴⁵Modakeke Interview MMA 8

⁴⁶R.A Asiyanbola., ‘Ethnic Conflicts in Nigeria: A Case of Ife-Modakeke in Historical Perspective’ *Journal of Humanities, Social Sciences and Creative Arts* vol. 5 no. 1, 2010, p. 61-78[63]

⁴⁷I.A Akinjogbin., *War and Peace in Yorubaland 1793-1893* (Heinemann Educational Books Nigeria, 1998) p. 173

⁴⁸Modakeke Summary of the Conflict Online: <http://Www.Modakeke.Info/2013/04/17/Summary-Of-Conflict>

mainly of the Ife. Thus, the Ife-Modakeke were to an extent separated politically. Because a constituency only defines the physical boundaries of specific areas for electoral purposes,⁴⁹ the Modakeke were not satisfied with being under the Oranmiyan constituency but wanted a full Local Government area which is a tier of government in Nigeria. But in 1979, when the Modakeke requested a full separation by means of a Modakeke-only Local Government, Chief Bola Ige, the governor of Oyo state –in which both groups were situated at the time (prior to the formation of Osun state)-- refused to grant Modakeke a separate Local Government.⁵⁰ Then, in 1980, the Modakeke elites launched a special appeal amongst the Modakeke for funds for the building of a new town hall and palace fund. However, this was disrupted by the Ife,⁵¹ when the ruler of the Ife (the Ooni) held that the Modakeke were not a separate town and therefore had no right to raise any funds for the development of the alleged Modakeke township. As a result, the Modakeke elite commenced a new range of agitation for a separate Local Government as a means to assert their autonomy from the Ife.

In 1981, Oyo state created 54 additional Local Governments including one which was dominated by the Modakeke. However, its headquarters was placed under the Ife and this action led to violent crisis.⁵² The Modakeke claimed that the Ooni of Ife had used his influence in preventing them from getting a Local Government with the headquarters in Modakeke. The Modakeke therefore decamped from the ruling party, the Unity Party of Nigeria (which was supported by the Ife) to an opposing party, the National Party of Nigeria. As a result, the Ooni degraded the ruler of the Modakeke, the Ogunsua, who to the Modakeke was the symbol of their autonomy as they had had a Modakeke ruler since their initial separation from the Ife in 1835.⁵³ This led to communal violence between the two groups in 1981.⁵⁴ The response of the Federal government was to set up a committee of inquiry under Justice Kayode Ibidapo who recommended a new Local Government for the Modakeke.⁵⁵ Also, the Oyo state

⁴⁹ Understanding Constituency Delimitation in Nigeria: The Quest for an Equitable Democratic System. Being Text of a Paper Presented at a Seminar on “Participatory Democracy in Nigeria: The Challenge of Constituency Delimitation” Organized by the Rights Monitoring Group with Support from Independent Electoral Commission (INEC) the Rock view Hotel Abuja, 23 October, 2009 <http://umarpate.blogspot.com/2009/06/understanding-constituency-delimitation.html>. Accessed 30th May 2018

⁵⁰I.A Akinjogbin., (1998) Ibid. p. 173

⁵¹‘Report of the Judicial Commission of Inquiry into the Communal Disturbances in Oranmiyan Central Local Government Area of Oyo State Led by Hon. Justice Kayode Ibidapo’ (Ibadan Government Printer, 1981) p.11

⁵²I.A Akinjogbin., (1998) Ibid. p. 173-175

⁵³ See discussions in chapter 3.3 on the social structure of the Ife and the Modakeke in pre-colonial times

⁵⁴N. Ogbara., *The Ife-Modakeke Crisis: Hope Betrayed? A Report on the Impunity and State Sponsored Violence in Nigeria* (World Organization Against Torture (OMCT) and Centre for Law Enforcement Education (CLEEN), 2002) p. 41

⁵⁵See the Recommendations in the ‘Report of the Judicial Commission of Inquiry into the Communal Disturbances in Oranmiyan Central Local Government Area of Oyo State Led by Hon. Justice Kayode Ibidapo’ (Ibadan Government Printer, 1981) p. 38-39

government set up a panel of inquiry into the Ife-Modakeke conflict headed by Chief Bola Ige and the panel came up with similar recommendations that Modakeke be given a separate Local Government yet it was never implemented.⁵⁶ The report of the judicial commission of inquiry set up by the Oyo state government in 1981 held strong views as the Modakeke when they said that: “Modakeke is a town, Modakeke has history, Modakeke is an Oyo-speaking people, Modakeke should be separated from Ife.”⁵⁷

The strong desire of the Modakeke to be physically and politically independent from the Ife did not go unnoticed by the Commission of Inquiry which came up with recommendations of political and financial separation of the groups by giving the Modakeke a separate Local Government council though these recommendations was not implemented.⁵⁸ This left room for a further outbreak of violence in 1983.

5.5.2 The 1983 Violence

The second violent clash between the groups came in 1983 shortly after the first in 1981. In 1983, the Modakeke people voted for the National Party of Nigeria against the Ife-chosen Unity Party of Nigeria, the former ousting the latter in the state elections. This was said to embarrass the Ooni of Ife who then renamed streets in Modakeke⁵⁹ triggering many violent reactions from the Modakeke and resulting in loss of lives and properties on both sides.⁶⁰ The conflict took the form of liberation struggle and self-determination⁶¹ because the remaining of the streets in Modakeke was a blow to the Modakeke’s claim to autonomy in the Ife.

In 1989, the Federal Military Government of Nigeria elevated the status of the three Oranmiyan state constituencies into Local Government areas. namely the Ife-North, Ife-Central and Ife-South.⁶² Modakeke was part of the Ife-North, although termed Ife-North, the Local Government area was occupied by the majority of the Modakeke, separated from the

⁵⁶T.A Imobighe., *Civil Society and Ethnic Conflict Management in Nigeria* (Spectrum Books Limited Ibadan, 2003) p. 159

⁵⁷“Report of the Judicial Commission of Inquiry into the Communal Disturbances in Oranmiyan Local Government Area of Oyo State, Ibadan. Government Printer. 1981. p. 19

⁵⁸T.A Imobighe., (2003) Ibid. p.159

⁵⁹N. Ogbara., (2002) Ibid. p. 40

⁶⁰ A.A Adegbite, B.O Balogun & F.N Buba., ‘Impact of Ife-Modakeke Intra-Communal Conflicts on Spatial Realignment of Ile-Ife City’ *Global Journal of Science Frontier Research* vol. 16. Issue 2., 2016

⁶¹A.S Elugbaju., ‘The Role of Traditional Institution in Managing Ife-Modakeke Conflict’ *International Journal of Arts and Humanities* (Bahir Dar-Ethiopia) vol. 5. no .2, 2016, p. 7-19 [13]

⁶²B.A Oyeniyi., Greed- Grievance Debate and the Ife-Modakeke Conflict. *Social History* (Routledge Taylor and Francis Group) vol. 35. no 3., 2010. p. 308-329 [320]

majority of the Ife people in the Ife South and the Ife Central causing the Modakeke people to be very happy and to declare peace.⁶³ This peace discovered in 1989 did not last long because the ultimate vision of the Modakeke to be politically and economically free from the Ife had not been realised by means of a Local Government area solely for the Modakeke. Thus, in 1997 violence broke out again for the third time in post-independent Nigeria.

5.5.3 The 1997-1999 Violence

The third episode of violence between the two groups in post-independent Nigeria was triggered by the actions of the federal military government in setting up of the Nbanefo Panel to bring government to the grass-roots and requesting groups to send in memorandum to a panel. The Modakeke requested that the Ife-North Local Government Area be split into two; Ife North and Ife North-East to give the Modakeke complete political autonomy from the Ife.⁶⁴ This was partially granted when, the military regime of the late General Sani Abacha created a new Local Government area for the Modakeke, the Ife East Local Government area (instead of the Modakeke request for two separate Local Government areas) with the headquarters in a place called Enu Owa in Ife, a part of the palace of the Ife monarch. This was considered by the Ife as a humiliation of the 'Revered Stool', the stool of the Ooni.⁶⁵ So, the Ife youths and adults took up arms and wanton destruction of lives and property began in earnest.⁶⁶ The military government then moved the headquarters of the new Local Government area from Modakeke occupied land to Oke-Ogbo in Ife and the bloody clashes started again in 1997-1999.⁶⁷

Attempts at resolution of the 1997 conflict were undertaken by another panel of inquiry. In 1997 the Osun state Council of Traditional Rulers set up a committee to look into the conflict. The National Reconciliation Committee, under Chief Alex Akinyele,⁶⁸ took evidence in Abuja and came up with recommendations for the communities to honour an agreement for peace.⁶⁹ However, that recommendation was never implemented.

⁶³I.A Akinjogbin., (1998) Op cit. p. 175

⁶⁴'Summary of the Conflict' Online: <http://www.modakeke.info/2013/04/17/summary-of-conflict>

⁶⁵N. Ogbara., (2002) Ibid. p. 41

⁶⁶'Nigeria: Ife, Modakeke Crisis: the Modakekes Raise the Stakes' March 6, 2002, Online: <http://www.modakeke.info/2013/05/23/nigeria-ife-modakeke-crisis-the-modakekes-raise-the-stakes/>

⁶⁷J.O Toriola., 'The Ife/Modakeke Crisis: An Insider view' *Ife Psychologia: An International Journal* vol. 9. no.3, 2001, p. 21-29

⁶⁸T.A Imobighe., (2003) Op cit. p. 159

⁶⁹T.A Imobighe., *Civil Society and Ethnic Conflict Management in Nigeria* (Spectrum Books Limited Ibadan, 2003) p. 159

5.5.4 The Year 2000 Violence

Since the recommendation for a new Local Government Area for the Modakeke was not implemented by the government, the people of Modakeke town decided to implement the recommendations of the National Reconciliation Committee set up in 1997 by declaring themselves a separate Local Government.⁷⁰ This led to another bout of violence between the two groups in the year 2000. Around 1,000 individuals were killed and several thousands were injured.⁷¹ There was a loss of cultural materials worth millions of naira.⁷² Also the University of Ile-Ife reported the displacement of 5,000 students and 1,000 staff members as well as disruption of lectures; and there was disruption to the academic calendar as a result of the forceful closure of the campus for several weeks during the various violent conflicts between 1997 and 2000.⁷³ The Government reported a cost of 31.8 million naira for the treatment of hundreds of victims of the crisis in just one hospital, namely, Obafemi Awolowo University Teaching Hospital.⁷⁴

Resolution attempts of the fourth violent conflict were by the intervention of the then President of Nigeria, Chief Olusegun Obasanjo, who brokered a ceasefire in March 2000 and set up a 27 Member committee- the Olagode George committee. Also, peace talks which concluded with the formal inauguration of Ife-Modakeke Inter Community Peace Advocacy Committee in September 2000 was initiated by the United States Agency for Internal Development/Office of Transition Initiative, under the leadership of Dr. Isaac Olawale. Both communities agreed to keep the peace after the intervention of the United States Agency.⁷⁵ The Modakeke was also given an area office in Modakeke in place of a Local Government council to pacify the people. The Area government gave a form of political and economic autonomy to the Modakeke as it was being financed by the Osun state government under the provisions of section 162 of the 1999 constitution. Since then, there have not been any physical confrontations but threats of violence have broken out between the groups.⁷⁶

⁷⁰“Nigeria: Ife, Modakeke Crisis: the Modakekes Raise the Stakes” 6, March, 2002. <http://www.modakeke.info/2013/05/23/nigeria-ife-modakeke-crisis-the-modakekes-raise-the-stakes/>.

⁷¹O.O Akanji., ‘Group Rights and Conflicts in Africa: A Critical Reflection on Ife-Modakeke, Nigeria’ *International Journal on Minority and Group Rights* vol.16. no. 1. p. 31-51 [46]

⁷²Memorandum Submitted by Chiefs, Community, Elders and People of Ile-Ife to the Military Administrator Osun State, September 1998 p. 13 in O.O Akanji., (2009) *Ibid*. p. 42

⁷³Nigerian Tribune, Ibadan, 2 June. 2000.

⁷⁴The Guardian Nigeria Newspaper, 8 November, 1999. p. 1

⁷⁵I.O Albert., ‘USAID/OTI Nigeria Intervention in Ife-Modakeke Conflict’ 2001

⁷⁶“Osun Citizen News: Brewing Ife/Modakeke Crisis: Youth Ask Aregbesola to Intervene” 28 October 2017. Online: <https://osuncitizen.com/2017/10/28/brewing-ifemodakeke-crisis-youths-ask-aregbesola-to-intervene/>

5.6 Insights from the Four Incidents of Violence in Post-independent Nigeria

The events of the four violent confrontations between the Ife and the Modakeke between 1960 and 2000, arguably reveal Modakeke feelings of political suppression and inequality brought about by both the Ife and the government of Nigeria⁷⁷ which are still entertained. The Modakeke responses to the cause of the conflict from the interviews conducted in 2014 are indicative of their feelings of oppression both from the Ife and the government. Some of these are:

“The thing that caused the issue between Modakeke and Ife was the Local Government. Modakeke wanted their own Local Government which would help them to develop at their own pace. But the Ife said they were not going to allow them to have a Local Government and that Modakeke must remain under them so that whatever they give, Modakeke will take.”⁷⁸

“The Government of the day has uppermost power over us as regards Ife because Ife are influential”.⁷⁹

“The Local Government is supposed to be in Modakeke instead of Ife.”⁸⁰

“The Ife treats us as slaves.”⁸¹

With some Modakeke still having strong feelings of oppression in recent times, it is pertinent that this trigger of conflict be addressed to prevent any further violence between the groups. Also, the four violent confrontations between the groups shows that attempts at resolution have been essentially State-based with little attempt at implementing recommendations of the committees which were set up to look into the resolution of the conflict. The interviews conducted among the Ife and the Modakeke reveal that the contemporary Ife and Modakeke acknowledge the major role of the government in resolving the conflict in modern times. The 46 out of 50 (92%) Ife participants who answered gave a positive response to the question of

⁷⁷See S. Olayiwole., ‘Integrated Education: An Instrument for Resolving the Ife-Modakeke Conflict in Osun State Nigeria’ *Journal of Alternative Perspectives in the Social Sciences* vol. 2. no. 2, 2010, p. 953-965 [757]

⁷⁸Modakeke Interview MMa 7

⁷⁹Modakeke Interview MMa8

⁸⁰Modakeke Interview MMa 9

⁸¹Modakeke Interview MMaF 11

the State intervening in resolving their conflict. A higher response was recorded in the Modakeke with 40 out of the 42 (95%) participants who answered questions giving positive response to the State intervening to resolve the conflict. The reality of the State intervening in the Ife-Modakeke conflict shows that any attempt at resolution in modern times has to take the State position into consideration as well as the possibility of persuading the State to take action to resolve the conflict.

The next section examines the effect of the social structure of the modern State in the conflict by reproducing some of the local norms of the people such as native/indigene-settler relationship, thereby contributing to the continuation of the conflict.

5.7 The Social Structure of the Ife and the Modakeke Groups in the Modern State: Impact on the Ife-Modakeke Conflict and Dispute Resolution

It is argued in this section that ethnic groups with their norms continue to form the foundation of group social structures in modern Nigeria. Furthermore, the Nigerian State by means of Federal State laws, have sustained traditional community norms. However, it can be argued further that the norms of the two groups, the Ife and the Modakeke, also sustain the strained and volatile relationship between them: these ancient norms inherited from the ancient Oyo, include those relating to land ownership, refugee status, land usage, and Ishakole. These are sustained by the norms of the State. In addition, it is clear from the researcher's interviews that these norms will probably continue as 41 of 50 (82%) Ife participants stated that they respect their tradition in relation to dispute resolution.⁸² Likewise, 37 of 42 (88%) Modakeke participants responded in the same way.⁸³ These ancient norms are not such as to prevent the creation of a new Local Government for the Modakeke. Indeed, they are the reason why it is essential for Federal laws to be changed so as to provide the Modakeke with their own, separate, Local Government authority.

Before discussing options open to the Federal government, it is first necessary to examine the communal land tenure system that creates hierarchy between groups, as seen in Yoruba land tenure system sustained by the modern State.

⁸² Ife interview coding Appendix 13

⁸³ Modakeke interview coding Appendix 14

In general, land in Africa is regarded as being sacred and held under customary land tenure. The statements of Caldwell and Caldwell show the relationship between land and traditional authority. Although Caldwell and Caldwell were discussing fertility in Africa, their observations are relevant. They stated that:

“Land was held communally by clan or lineage. A sacred trust, it was essentially in the holding of the ancestors...”⁸⁴

As demonstrated in chapter three in section 3.3.2, among the Yoruba, land was sacred too. The distribution of land was under the exclusive preserve of the traditional rulers, family heads and local communities.⁸⁵ By this method of land tenure, social authority of community leaders was upheld as they were in position to distribute lands. The introduction of the Land Use Act⁸⁶ in 1978 by the Nigerian State was aimed at ending such social authority over land and putting all lands under the care of the government. Williams noted the intended impact of the Land Use Act on groups when he wrote:

“The Land Use Decree promulgated in 1978 by the Nigerian Federal Government was designed to pose a direct challenge to alternative sources of social authority by relegating all private transactions in land to governmental agencies.”⁸⁷

The 1978 Act was preceded by the Land Use Panel established by the military government in 1977 and headed by a Justice of the Supreme Court to look into economic and social life because land was considered to be one of the “major bottlenecks to development efforts in the country”⁸⁸

The 1978 reform was much needed because of the problems faced by the land tenure system in the country where, as Lloyd has noted, the elite Chiefs and elders of the people arbitrarily

⁸⁴J.C Caldwell & P. Caldwell., ‘The Cultural Context of High Fertility in Sub-Saharan Africa’ *Population Development Review* vol. 13, 1987 p. 409-437 [p. 422]

⁸⁵D.C Williams., ‘Measuring the Impact of Land Reform Policy in Nigeria’ *The Journal of Modern African Studies* vol. 30. no. 4, 1992, p. 587-608 [589]

⁸⁶Land Use Act, 1978 Chapter 202, Laws of the Federation of Nigeria, 1990. Herein after referred to as the Land Use Act 1978. Online: <http://www.NigeriaLaw.Org/Land%20use%20Act.Htm>

⁸⁷D.C Williams., (1992) Ibid. p. 587

⁸⁸U.M Igbozurike., *Nigerian Land Policy: An Analysis of the Land Use Decree* (Department of Geography University of Nigeria Nsukka Nigeria) p. 2

sold communal lands as a business for their own benefit.⁸⁹ Oshio has also noted that land speculation increased, and the selling of a single tract of land for construction to multiple buyers was rampant, thus creating uncertainty of land title.⁹⁰ Events like these led to the reform of the land tenure system in Nigeria in 1978. To help reform land use in Nigeria, Section 1 and 2 (a)(b) of the Act respectively provides that:

Section 1:

*Subject to the provisions of this Act, all land comprised in the territory of each State in the Federation is hereby vested in the Governor of that State, and such land shall be held in trust and administered for the use and common benefit of all Nigerians in accordance with the provisions of this Act.*⁹¹

Section 2 (a):

all land in urban areas shall be under the control and management of the Governor of each State.

Section 2 (b):

*all other lands shall, subject to this Act, be under the control and management of the Local Government within the area of jurisdiction of which the land is situated.*⁹²

The above provisions were meant to provide a uniform standard of land tenure system in Nigeria where lands no longer belonged to communities and groups but to the government of Nigeria. Oshio noted that sale of land and partitioning of land requires the consent of the Local Government, and not by traditional rulers because it amounts to alienation of land.⁹³ This is in keeping with the provisions of section 21 that prohibits the alienation of customary rights of occupancy thus:

Section 21 provides that:

⁸⁹P.C Lloyd., *Yoruba Land Law* (Oxford University Press, 1962) p. 360-361

⁹⁰P.E Oshio., 'The Indigenous Land Tenure and Nationalization of Land in Nigeria' *Boston College Third World Law Journal* vol. 10. Issue 1, 1990, Articles 3. p. 49

⁹¹ Land Use Act, 1978 Chapter 202, Laws of the Federation of Nigeria, 1990. Herein after referred to as the Land Use Act 1978. Online: <http://www.Nigeria-Law.Org/Land%20use%20Act.Htm>

⁹² Land Use Act, 1978 Ibid

⁹³P.E Oshio., (1990) Ibid. p. 56

It shall not be lawful for any customary right of occupancy or any part thereof to be alienated by assignment, mortgage, transfer of possession, sublease or otherwise howsoever

(a) Without the consent of the Governor in cases where the property is to be sold by or under the order of any court under the provisions of the applicable Sheriffs and Civil Process Law; or

(b) in other cases, without the approval of the appropriate Local Government.

With the above provisions, the Modakeke were in the same position to deal with the land they occupied with the consent of the state governor as were the native Ifes.

However, Section 34 of the Act, complicated issues by preserving the rights of individual occupiers of lands under the customary right of ownership as if such lands were granted by the state Governor.

Section 34 (1)(2) (5) provides:

(1) The following provisions of this section shall have effect in respect of land in an urban area vested in any person immediately before the commencement of this Act.

(2) Where the land is developed the land shall continue to be held by the person in whom it was vested immediately before the commencement of this Act as if the holder of the land was the holder of a statutory right of occupancy issued by the Governor under this Act.

(5) Where on the commencement of this Act the land is undeveloped, then

(a) one plot or portion of the land not exceeding half hectare in area shall subject to subsection (6) below, continue to be held by the person in whom the land was so vested as if the holder of the land was the holder of a statutory right of occupancy granted by the Governor in respect of the plot or portion as aforesaid under this Act

The above provisions dealing with both developed and underdeveloped land owned by individuals prior to the 1978 Act, preserved the customary land tenure system where the Modakeke settlers continue to be indebted to the individual Ife native settlers owning lands in Ife regardless of how long they live and farmed those lands in the Ife. The Supreme Court in the case of *Chief Ojeme & other v Alhaji Momodu 11 & Others*⁹⁴ upheld the right of a community to hold rights of occupancy. Also, the provision of Section 29 of the Land Use Act which provided that compensation could be paid to chiefs or leaders of community is a preservation of customary land tenure system. Although, the Ife and the Modakeke live in modern towns and some farming villages, the majority are farmers and fishermen. In fact, the Encyclopaedia Britannica refers to the inhabitants of Ile-Ife as “town dwelling-farmers”⁹⁵ underscoring the importance of land use to the inhabitants of Ile-Ife including the Modakeke. It is no surprise therefore that the Modakeke threatens war if the Ifes continue to prevent them from the use of farmlands in Ife after the conflict settlement in the year 2000. It is argued that the preservation of the customary land tenure system that sustains inequality between ‘natives’ and ‘settlers’ in Nigeria is detrimental to the Modakeke as later settlers in Ife because, as pointed out by Slocum-Bradley: “In the Nigerian experience, being an indigene or a settler is a permanent identity, as there is no provision for the latter to convert to the former.”⁹⁶

The study of Boone, although not carried out in Nigeria, has proved this to be true in other African countries such as Ghana and Burkina Faso with similar land tenure systems to the one found in south-western Nigeria. Boone noted that ethnic hierarchies built into Burkina Faso’s land tenure system continue to exist as a result of the State institutionalising them, starting from the colonial administrations that used lands as “markers of political status.”⁹⁷ The same is true with Nigeria: the Land Use Act 1978 institutionalises the customary ownership of land, empowering customary landowners to allocate and reallocate lands. By upholding customary land tenure regime, the State reproduces and confirms the hierarchical structure of “the local political arena.”⁹⁸ Boone pointed out that under the land tenure regime in Burkina Faso, “social groups claiming to be autochthonous, or first-comers, are in a strong position to assert and retain local political dominance.” Therefore, the State should stand to defend migrants

⁹⁴ (1983) 1Nigeria Law Report. P. 188

⁹⁵See the Encyclopadia Britannica: ‘Ile-Ife’ Online: <https://www.britannica.com/place/Ile-Ife>

⁹⁶N. Slocum-Bradley., *Promoting Conflict or Peace through Identity*. Ash Gate Publishing, England. p. 45

⁹⁷C. Boone., *Property and Political Order in Africa: Land Rights and the Structure of Politics* (London School of Economics and Political Science, Cambridge University Press, 2014) p. 105

⁹⁸C. Boone., (2014) Ibid. p. 109

such as the Modakeke who cannot hold claims to farmlands in the Ife despite living there for hundreds of years because individual Ife natives were first settlers in Ile-Ife. According to Cameron, ownership of land in perpetuity was only accorded to first-generation settlers in the Yoruba community and therefore only ‘natives’ could then pass the land rights to their children and generations afterwards.⁹⁹ Thus, families that arrived to settle later in the community --such as the Modakeke in Ife-- were regarded as stranger/settlers that need special permission to use land and such lands cannot be owned in perpetuity, unlike natives/indigenes who have such rights. This, creates discriminatory norms and hierarchies between natives and settler groups. Mamdani described it as the post-colonial State giving customary rights as a bonus to the indigenous citizens.¹⁰⁰

Further proof that the effect of the preservation of the customary land tenure system has not been a positive one in the Ife-Modakeke conflict is seen in the effect of the requirement to pay the Ishakole in Yoruba customary land tenure. As stated in chapter three, the Yoruba customary land tenure system preserved by virtue of the Supreme Court judgment involving the payment of tribute to the grantor to create a customary tenancy¹⁰¹ has meant that individual Modakeke farmers have had to continue paying the Ishakole for using Ife land. And where the obligation to pay such tribute is persistently breached, the Supreme Court has ruled that the tenancy has been forfeited.¹⁰² The court has also held that payment of such tribute was an acknowledgement of the grantor’s over-lordship.¹⁰³ In the case of *Chief Alhaji K.S.O. Akanmu v Raji Ipaye & Others*¹⁰⁴ the Supreme Court held that:

*“Tribute is paid as a mark of respect for a previous overlord: its payment does not signify a subsistence of the overlord’s revisionary interest. Rather it is a customary incident of occupation of land by a stranger and is usually voluntary and does not depend upon any agreement”*¹⁰⁵

⁹⁹D. Cameron., *A Note on Land Tenure in Yoruba Province* (Government Printers, Ministry of Information, 1933) p. 3

¹⁰⁰M. Mamdani., ‘Beyond Settlers and Native as Political Identities: Overcoming the Political Legacy of Colonialism. Comparative Studies in Society and History’ vol. 43, no. 4, Oct. 2001. Cambridge University Press. p. 651-664 [658]

¹⁰¹*Chief Braide v Chief Kalio* (1927) Nigeria Law Report (NLR) 34

¹⁰²*Chief Ojeme & Other v Alhaji Momdu 11 & Others* (1983) Nigeria Law Reports 188; *Asani Taiwo & Others v Adamo Akinwunmi & Others* (1975) 4 Supreme Court Reports. p. 143

¹⁰³*Chief Uwani V Akom & Others* (1928) 8 Nigeria Law Report; Ibid. fn 100

¹⁰⁴ (1990) 3 NLR 30

¹⁰⁵ Ibid. fn 103

The above statement gives the impression that the over-lords had no protection under customary land tenure. However, they do have protection whenever there is express agreement to pay ground rent, such as Ishakole, in the Yoruba. In such instances, the Court will grant forfeiture of customary tenancy on proof of misconduct.¹⁰⁶ Otite rightly noted that the 1978 Act led the Modakeke to perceive freedom from paying the ground rent to Ife and the Ife continued to demand payment according to the traditional norm, thus, increasing the conflict between the two groups.¹⁰⁷ Although the Ishakole, according to the dictionary of modern Yoruba, is not rent but:

*the “fee paid to owner of land or to Ba’le (where land is deemed to be vested in him). Such fee is paid to the Ba’le during some ceremony such as a marriage, funeral etc. Such payment is no rent but are a token of the paramount rights of the granter of the land.”*¹⁰⁸

Modern judicial precedent, however, has defined the Ishakole as ground rent thereby rendering ineffective the Modakeke argument that the land they occupy is not subject to the payment of Ishakole. Their argument was that, based on traditional Yoruba norms, the land which they occupy was given freely to them by the late Ife Ooni in 1835.¹⁰⁹ However, as noted in chapter three (3.8.1), “[l]and[s] are never sold, but may be granted to outsiders for life...” The fact that Lands were not alienated by sale in the pre-colonial Yoruba land tenure system could form the basis of an argument that the Ife lands that the Modakeke occupy at present are covered under the Land Use Act and thus cannot be Modakeke land since Ife cannot transfer customary lands. However, the Yoruba land tenure system also guarantees protection of land given to outsiders under customary law. As earlier noted in chapter three, in quoting Johnson:

¹⁰⁶Chief Alhaji K.S.O Akanmu v Raji Ipaye & Others (1990) Ibid.; Earlier Cases of Adeleke v Adewusi (1961) 1ANLR 37; Ife Overlords v Modakeke (1948) SKY

¹⁰⁷See analysis in Chapter 4.3 and the discussions of O. Otite., *Ethnic Pluralism, Ethnicity and Ethnic Conflicts in Nigeria: With Comparative Materials* (Shaneson Ibadan, 2000) p. 24

¹⁰⁸R.C Abraham., *Dictionary of Modern Yoruba*. p. 321

¹⁰⁹ See dictions in chapter 3.3.2

“Land once given is never taken back except under special circumstances as treason to the State which renders the grantee an outlaw, and he is driven altogether from the State or tribe, and his land confiscated.”¹¹⁰

It follows that lands obtained under the Yoruba customary land tenure system could not be reclaimed unless on grounds of misconduct. Cases such as *Aminu Raji v Jimoh Oladimeji and Oseni*,¹¹¹ where the plaintiff sought a declaration of forfeiture of the defendant’s customary tenancy on grounds of misconduct was allowed reclamation by the Court of Appeal on such grounds. Considering the court’s decision above, the land granted to the Modakeke in 1835 in pre-colonial times and which they still occupy belongs to the Modakeke by default in that the Ife cannot go back to reclaim the land under section 21 of the Land Use Act except if they can prove that the Modakeke are their customary tenants and are liable for misconduct. This is so because according to the rulings of the Court in *Chief Alhaji K.S.O. Akanmu v Raji Ipaye & others*,¹¹² the agreement to pay ground rent on the land, Ishakole, is “an obligatory rent whose main purpose is to ensure subsistence of revisionary rights upon forfeiture of a customary tenancy for any reason.”¹¹³ It is obvious that the State, by sustaining customary land tenure system in Nigeria, has given the Ife superiority over the Modakeke as tenants of the Ife regardless of how long the Modakeke have lived on the land which the Modakeke say was given to them in 1835.

However, the Supreme Court have settled the matter of land ownership by stating five types of legal land ownership in Nigeria in the case of *Elegushi v Oseni* ¹¹⁴as:

1. by acts of long possession and enjoyment of the land in dispute
2. by the production of the documents of title which must be authenticated
3. by traditional evidence
4. by acts of ownership extending over a significant length of time which acts are numerous and positive enough to warrant the inference that they are owners
5. by proof of possession of connected or adjacent land in circumstances rendering it probable that the owners of such connected or adjacent land would in addition be the owners of land in dispute

¹¹⁰S. Johnson., *The History of the Yoruba from the Earliest Times to the Beginning of the British Protectorate* (George Routledge & Sons Ltd ,1921) p. 95

¹¹¹ (2014) Court of Appeal/1203/2008

¹¹² (1990) 3 Nigeria Law Reports, p. 30

¹¹³ Ibid. fn 111

¹¹⁴ (2005) 14 Nigeria Weekly Law Report, Pt 945 p. 348

Under the above types of ownership, the Modakeke and the Ife can determine the areas that constitute Ife and Modakeke land. The fact, remains that the Modakeke are settlers in the Ife and although they can claim possession of the land they have lived in as the dominant population for over one hundred years, they will still be seen in Ife as strangers. However, this will not prevent a Local Government Area for the Modakeke.

On the other hand, the purpose of the 1978 Act was to promote equitable distribution of land by State control¹¹⁵ and to harmonise the land tenure system throughout Nigeria.¹¹⁶ This has renewed the Modakeke struggle for a Local Government¹¹⁷ of its own so that it can control the land it occupies in Ife and, in so doing, destroy all vestige of Ife involvement in relation to the lands occupied by the Modakeke. This is important to the Modakeke because endeavours that demonstrate self-determination from the Ife, such as building their own Mosque, had been prevented by the Ife in times past due to the Ife claim to the land the Modakeke occupy. It is no wonder that both the Ife and the Modakeke mentioned to the Researcher that land dispute is one of the triggers to their conflict.¹¹⁸

From the foregoing, it is argued that the policies and procedures of the government of Nigeria contribute to the conflict of groups and communities in Nigeria by creating avenues for misinterpretation of the Land Use Act through the dual tenure system of customary land tenure and state-controlled land.

5.8 Economic Structure of the Modern State and Separation of Groups

As stated in the theoretical framework in chapter one, generally in the history of Nigeria, “the issues of access to resources...exacerbated the problem of ethnic politics during the colonial and post-colonial periods.”¹¹⁹ Therefore a solution to the Ife-Modakeke conflict in post-colonial Nigeria considered in this sub-section necessarily involved a consideration of the impact of the group’s economic structure in post-colonial Nigerian federal State. This sub-

¹¹⁵E.P Renne., ‘Houses, Fertility and the Nigerian Land Use Act’ *Population and Development Review*. *Population Council* vol. 21. no. 1, 1995, p. 113-126 [122]

¹¹⁶U.M Igbozurike., *Nigerian Land Policy: An Analysis of the Land Use Decree* (Department of Geography University of Nigeria Nsukka, 1980) p. 7

¹¹⁷ There is no requirement for land ownership in order for people to have a Local Government of their own. In the event that the Modakeke do not succeed in their quest for land ownership, they are still entitled to a separate Local Government if they satisfy the requirements on economic and political grounds. (See Chapter 6.)

¹¹⁸See coding of the Ife and the Modakeke conflict in Appendix 13 and 14 respectively

¹¹⁹O.O. Akanji., ‘The Problem of Belonging: The Identity Question and the Dilemma of Nation-building in Nigeria’ *African Identities* (Routledge Taylor & Francis Group) vol. 9 no.2, 2010p. 117-132 [118]

section shows that the revenue allocation formula right from the 1960 constitution to date gives the federal government much control of the revenue to states and Local Governments and thus the power to determine their survival at creation.¹²⁰ In addition, revenue from the federal and state accounts to Local Governments without internally generated revenue from the Local Governments themselves makes groups such as the Ife and the Modakeke rely heavily on the revenue allocated to Local Governments from the federal and state accounts with little internally generated revenue. Therefore, groups such as the Modakeke hold stronger appeal for the Local Government area to get more revenue for the betterment of their group. Also, groups such as the Ife prefer to have the Modakeke as part of them for more revenue allocation. This lure for more Local Government revenue from the federal and state accounts sustains the Ife-Modakeke conflict in post-colonial Nigeria. Obi stated that: “the issue of revenue allocation strikes at the very basis of existence of the Nigerian Federation”¹²¹

From the above statement, the issue of revenue allocation can be seen to be central in Nigeria’s economic structure. Presently, as a federal State, the revenue generated in the federation is divided among the components of the federation which in Nigeria’s case, is the federal government, the 36 states of Nigeria and the 774 Local Government areas by virtue of section 162 of the Nigerian Constitution, 1999. This revenue allocation is often referred to as fiscal federalism. According to Dang, fiscal federalism basically “emphasises on how revenue is raised and allocated to different levels of government for development.”¹²²

There have been several studies on how revenue is shared between the federal, state and Local Governments in Nigeria and the basis of sharing the revenue studies such as Phillips 1991¹²³, Okoh and Egbon 1999,¹²⁴ Aluko 2004¹²⁵ and Basir 2008.¹²⁶ This sub-section does not pretend to provide an in-depth discussion of revenue allocation in Nigeria but seeks to highlight the effect of the method of allocation to Local Government on the need for separating the Ife-

¹²⁰ Detailed discussion of Local Government revenue is examined in chapter 6

¹²¹ C. Obi., *The Impact of Oil and Nigeria’s Revenue Allocation System: Problems and Prospects for National Reconstruction* in A.K Agbaje, A. Suberu, & G. Herault (eds) *Federalism and Political Restructuring in Nigeria* (Ibadan Spectrum Books Ltd, 1998) p. 262

¹²² D.Y Dang., *Revenue Allocation and Economic Development in Nigeria: An Empirical Study* (Sage, 2013). p. 1

¹²³ A.O Phillips., ‘Managing Fiscal Federalism: Revenue Allocation Issues’ (Oxford Journal of Social Sciences) *Publius* vol. 21. Issue 4., 1991, p. 103-111.

¹²⁴ R.N Okoh & P.C Egbon., *Fiscal Federalism and Revenue Allocation: The Poverty of the Niger Delta in Fiscal Federalism and Nigeria’s Economic Development* (Ibadan Nigeria: The Nigerian Economic Society, 1999)

¹²⁵ M.E Aluko., ‘Revising Nigeria’s Revenue Allocation Formula Aftermath of Supreme Court Ruling’ 2004, Online: <http://www.newageonline.com/politics/article01>

¹²⁶ K.A Bashir., ‘The Mechanics of revenue allocation: Understanding the Need for Effective Data Collection and Management, Workshop paper, 2008

Modakeke group. Therefore, only a brief analysis of revenue sharing is done here using the constitutional provisions from 1960 constitution to the present 1999 constitution of Nigeria.

Revenue allocation in Nigerian history have been in the hands of *ad hoc* committees/commissions. In the post-independent era, there had been five such committees/commissions namely: the Binns Commission 1964; the Dina Interim Committee 1968; the Aboyade Technical Committee 1977; the Okigbo Commission 1980; and a permanent body created in 1989 the National Revenue Mobilization, Allocation, and Fiscal Commission enshrined into the 1999 Constitution. These committees/commissions have been tasked with the job of providing methods of sharing the public funds of the government of Nigeria among the federating units. Stephen and Osagie divided these funds into the categories of taxable and non-taxable revenue for the economic development¹²⁷ of the federating units.¹²⁸

Both the taxable and non-taxable revenue being shared between the levels of government in Nigeria comes from the federation account where the federal government collects and retains the largest share of Nigeria's public revenue.¹²⁹ Between the 1960's and 1990's the money going into the federal account was mainly income from oil and gas accounting for up to 80% of the revenue. However, the relative importance of oil has decreased in recent years as the value of crude oil per barrel has dropped from \$148.14 in 2010 to \$82.7 per barrel.¹³⁰ Now the structure of the Nigerian economy is dominated by agriculture at 23%, 11% crude oil and gas and the remaining revenue from taxes, levies, tolls, penalties and charges. The Central Bank of Nigeria statistical bulletin for 2016, shows that the states and the Local Government Areas generate very small amounts of revenue internally making them heavily reliant on the allocation from the federation account.¹³¹

The component of revenue allocation from the federal account is divided into two, namely the vertical and the horizontal formula. The vertical formula is sharing of the revenue by the federal government, the 36 states and the Local Government areas. While the horizontal formula is for the sharing of already allocated revenue between states and the Local

¹²⁷Economic development according to Adams is the elimination of poverty and inequality within an economy. See Adams, R.A., (2006) Public sector accounting and finance. Lagos Nigeria: Cooperate Publishers Ventures.

¹²⁸N.M Stephen & E. Osagie., *A Textbook of Economics for West African Students* (Ibadan Nigeria: University Press Limited, 1985)

¹²⁹I. Nolte., 'Federalism and Communal Conflict in Nigeria' *Regional & Federal Studies* vol. 12. no. 1, 2002, p. 171-192 [174]

¹³⁰United Nations Economic Commission for Africa: Nigeria Country Profile, 2016' Online: <http://www.uneca.org>

¹³¹CBN statistical Bulletin vol. 27. December 2016 Online: [Http://statistics.cbn.gov.ng-cbn-onlinestats](http://statistics.cbn.gov.ng-cbn-onlinestats).

Government Areas.¹³² The vertical formula is guided by the constitution. For example, starting with the 1960 independent constitution, Sections 123 to 130 of the constitution provided for the allocation of revenue through the Consolidated Revenue Fund, indicating a flow of revenue from the centre, thus making it difficult for grass root politics to survive without high dependency on the revenue from the government of the day and such revenue going to Local Government Areas. Thus, this creates greater appeal for groups to struggle for their Local Government Area. Also, the federal government's control of the revenue in the federal account gives the government power to control the resources to states and Local Government, therefore leaving Local Government survival in the hands of the federal government. Although the 1960 Constitution tried to show that all groups are equal by prohibiting discrimination of any group by virtue of their tribe, language and so forth,¹³³ the elites of each region made the constitutional prohibition ineffective. The elites made sure that resources coming from the federal government went straight to the betterment of their groups and the minorities among them had nothing to show for themselves.¹³⁴ Smith alluded to this fact when he wrote that:

*"...retention of power at the regional level depended upon resources and patronage...the familiar competition for state power in order to control the flow of investment became dominated by geographical dimension that reflected the interest of major ethnic groups"*¹³⁵

The above statement shows that the general minority groups in Nigeria¹³⁶ were disadvantaged economically and politically leading to struggles for autonomy and agitations for recognition

¹³²K.A Bashir., (2008) Ibid. p. 3

¹³³See Section 27(1) Prohibiting Discrimination by Virtue of Tribe. 1960 Constitution

¹³⁴B. Smith., 'Federal-State Relations in Nigeria' *African Affairs* (Oxford University Press on Behalf of the Royal African Society) Vol. 80. No. 320., July 1981. p. 355-378 [356]

¹³⁵B. Smith., (1981) Ibid. p. 356

¹³⁶Awolowo defined majority groups in terms of languages identifying ten majority groups based on the fact that 70% of the entire Nigerian population at the time spoke the ten languages and the other 30% he classified as minorities. See Awolowo (1947) *Path to Nigerian freedom*. Faber London. In contrast, Otite and Ekeh argued that minority are not based on entirely population, rather minority status is based on both population size and political abilities. See O. Otite., *Ethnic Pluralism and Ethnicity in Nigeria* (Shaneson Ibadan, 1990) p. 26 P. Ekeh., *Political Minorities and Historically Dormant Minorities in Nigeria: History and Politics* (Mimeo State University of New York Buffalo, 1994) It follows then that sub-groups such as the Modakeke in Ife are minorities in Ife because they make up very minor population of the Ife. The Modakeke have only three wards out of the ten that make up Ife-East Local Government Area which constitute only ¼ of the Ife entire Local Government areas. While Ife has 4 Local Government Areas with several wards, the Modakeke have only an area office. So politically and in size, the Modakeke can be said to be minority population in the Ife. Ife population is almost 600,000 while Modakeke is a mere 113, 000.

of their own smaller groups and sub-groups. According to Chabal, the legitimacy of Nigerian leaders' rests solely on their ability to provide economically for their groups.¹³⁷

With the 1963 Constitution, revenue allocation continued to be controlled from the centre through the Federal to the State levels thus limiting the financial autonomy of the groups and in effect increasing the need for groups to have their own Local Governments. Section 140 of the 1963 constitution clearly provided that:

There shall be paid by the Federation to each Region a sum equal to fifty per cent of-
(a) The proceeds of any royalty received by the Federation in respect of any minerals extracted in that Region; and
(b) Any mining rents derived by the Federation from within that Region.

The fact that revenue was attached to the Regions from the Federal government meant that the Governors of the Regions continued to seek the better good for their regions, while the minority tribes suffered. Smith alluded to this fact when he wrote that:

*"...retention of power at the regional level depended upon resources and patronage...the familiar competition for state power in order to control the flow of investment became dominated by geographical dimension that reflected the interest of major ethnic groups"*¹³⁸

The above statement shows that the minority groups were disadvantaged economically and politically leading to struggles for autonomy and agitations for recognition of their own smaller groups and sub-groups. This was evident from the necessity of section 159 of the 1963 Constitution, establishing the Niger Delta Development Board to cater for the Niger Delta Region. As result, the modern State through the 1963 Constitution, provided avenues for regional consciousness and the resultant agitations of the minorities evident in the group crisis which has carried on into modern Nigeria. Suberu noted that the clamour for state creation in 1976 was basically for rapid economic development of minority areas and the devolution of central revenue.¹³⁹

¹³⁷P. Chabal., *Violence, Power and Rationality: A Political Analysis of Conflict in Contemporary Africa* in P. Chabal & A. Gentili (eds.), *Is violence Inevitable in Africa? Theories of Conflict and Approaches to Conflict Prevention* (vol. 1. p. 1-16 Leiden & Boston: Brill, 2005) p. 4

¹³⁸B. Smith., 'Federal-State Relations in Nigeria' *African Affairs* (Oxford University Press on behalf of the Royal African Society) vol. 80. no. 320. July 1981, p. 355-378 [356]

¹³⁹R.T Suberu., 'The Struggle for New States in Nigeria 1976-1996' *African Affairs* vol. 90., 1991, p. 158-160

The 1979 constitution also helped to further increase the dependency of the groups on State revenue as the revenue allocation according to the provisions of section 149 of the 1979 constitution, made the Local Government dependent on the Federal and State allocations for survival not from independent local revenue sources as was the case when the groups were autonomous in pre-colonial times.¹⁴⁰ This has no doubt contributed to the small groups fighting for their independent Local Government as it would mean more revenue from the Federal and State government rather than relying on limited revenue generated from the Local Government to all sub-groups within the Local Government. It is no surprise then that the Modakeke group have been actively fighting for their separate Local Government area.

The 1999 constitution also provides for allocation of revenue from the state to the different Local Government areas by virtue of section 7 that establishes the Local Governments and Section 162 that provides:

(6) Each State shall maintain a special account to be called "State Joint Local Government Account" into which shall be paid all allocations to the Local Government councils of the State from the Federation Account and from the Government of the State.

(7) Each State shall pay to Local Government councils in its area of jurisdiction such proportion of its total revenue on such terms and in such manner as may be prescribed by the National Assembly.

(8) The amount standing to the credit of Local Government councils of a State shall be distributed among the Local Government councils of that State on such terms and in such manner as may be prescribed by the House of Assembly of the State.

The current vertical allocation of the revenue in the federation account from the year 2000 is 52.68%, 26.72% and 20.60% to the federal, state and Local Governments respectively.¹⁴¹ It is important to note that the Local Government has had an increase of revenue allocated to it from the federation account from 10% allocation in 1964 to 20.6% by the executive order of the president in 2000. It is argued here that, because of the increase in allocation to the Local

¹⁴⁰ See Analysis of the economic structure of the groups in Chapter 3.4

¹⁴¹ A. Salami., 'Taxation, Revenue Allocation and Fiscal Federalism in Nigeria: Issues, Challenges and Policy Options' Economic Annals, vol. vi no. 189., 2011, p. 27-50 [41]

Governments and the sharing formula, separation appears to be more appealing to groups such as the Modakeke so as to control the revenue coming into their group. But because of the provision of section 162 in conjunction with section 8 of the Constitution that gives the federal government the authority to accent the creation of a Local Government, both the Local Government creation and financial survival lies in the discretion of the federal government. This is evidenced by the federal government preventing the survival of new Local Governments created by states through refusing to assent to the creation of new Local Governments and starving them of funding.¹⁴²

Also, of importance, is the basis for the horizontal formula for sharing revenue between states and Local Government areas such as population, equality of states, internal revenue generation, land mass and the principle of derivation has contributed to the conflict of groups such as the Ife and the Modakeke. For example, by virtue of the revenue allocation by population, there are benefits from having a larger population thus the Ife stands to benefit from having the Modakeke as extra population and greater land mass for extra revenue allocation. In addition, most Local Governments only generate 10% of the revenue required to meet their recurrent expenditure¹⁴³ therefore relying heavily on federal and state allocations. The distributive nature of revenue from the federal to the states and Local Government have led to ethnic consciousness at the local level.¹⁴⁴ Claude Ake, a political scientist, gave the best picture of the negative result of Nigeria's economic system where the federal government gives resources to the state and Local Governments causing so many autonomies struggles in these words:

*"[T]he habits of consuming...without producing...underlies our fanatical zeal for political power, and our political fragmentation. We seek political power avidly because it enables us to accumulate wealth without the bother of producing. We demand more and more states and Local Government areas because as each group divides itself, it appropriates more from the public coffers. We inflate population figures because the more we are the more we receive..."*¹⁴⁵

¹⁴² The occasion of the Nigerian federal State preventing creation and functioning of a Local Government is discussed in details in the next chapter. As illustrated in the famous case of *Attorney General of Lagos State v The Attorney-General of the Federation* (2004) Supreme Court. 70/2004. Judgement Delivered by Muhammadu Lawal Uwais CJN. Online: <http://www.nigeria-law.org/Attorney-General%20of%20Lagos%20State%20V%20Attorney-General%20of%20the%20Federation.htm>

¹⁴³ N.F Mendie., *Local Government and Conflict Management in Nigeria* (Afahaide and Bros Printing and Publishing Co. Joemason Printers Uyo, 2000-2002) p. 26

¹⁴⁴ R.T Suberu., *Federalism and Ethnic conflict in Nigeria* (United States Institute of Peace, 2001) p. 10

¹⁴⁵ Cited by R.T Suberu., (2001) Ibid. p. 10

This may be arguably the case for groups such as the Ife and Modakeke in their modern conflict. Where a group may want the other to remain part of it because they have more population which means more allocation from the State to the Local Governments controlled by them. Thus, exhibiting what Ake called as “inflate population figures because the more we are the more we receive...”¹⁴⁶ On the other hand, another group might desire to be separate to get development for their immediate group and therefore exhibiting what Ake refers to as seeking “political power avidly because it enables us to accumulate wealth without the bother of producing.”¹⁴⁷ Where this is proven to be the case, it follows that the modern group conflict for self-determination through Local Government creation are not merely due to cultural differences but the result of a federalism that encourages taking and taking financially without producing. A system that does not encourage groups to produce but only to receive financially. Although regionalism has been condemned as having fostered majority dominance over minority groups, it encouraged revenue generation and not just receiving. The move from regionalism to federalism has encouraged only receiving financially from the centre thus making separation very appealing to groups that feel economically underdeveloped. According to Smith, even the extremely poor people in Nigeria are aware that the control of wealth and power in Nigeria is through “social connections of patron-clientelism.”¹⁴⁸ In the Ife and the Modakeke case, the Modakeke struggle for a Local Government might have some bearing on the economic benefits the elite might stand to get. On the other hand, the Ife might want to retain any economic benefit they stand to gain from having the Modakeke as part of the Ife.

The general recommendation is that revenue allocation should be towards national economic development rather than geopolitical considerations. However, as the revenue allocation formula stands to ensure basic amenities goes to each group fairly, the only way to pacify both the Ife and the Modakeke is to separate them financially by creating a Local Government for the Modakeke to enable them to control their finances themselves. While financial separation may be feasible, is the political structure of modern Nigeria one that enables separation?

¹⁴⁶Cited by R.T Suberu., (2001) Op cit. p. 10

¹⁴⁷Cited by R.T Suberu., *Federalism and Ethnic Conflict in Nigeria* (United States Institute of Peace, 2001)

¹⁴⁸J.D Smith., *A Culture of Corruption* (Princeton NJ: Princeton University Press, 2006) p. 13

5.9 The Political Structure of the Modern State and Separation of Groups

This section argues that the nature of the Nigerian federal structure has made political separation of groups into smaller units such as States and Local Government Areas a possibility especially among the Yoruba of Nigeria because Statehood is merely instrumental for political gains and not as symbols of nationhood. However, the federal character principle in the constitution designed to check Nigeria's diverse group challenges has sustained hierarchy between groups and resulted in the continuance of the Ife-Modakeke conflict. Therefore, to resolve the conflict, the State has to separate the Ife-Modakeke groups politically to return the peace to the groups and remove the principle of native/indigene-settlers in the constitution.

The country has reorganised itself politically several times since independence. Starting with the regional system in 1940's and 1950's, the federal structure was divided into three main regions with the Hausa-Fulani in the Northern region, the Yoruba in the West and Igbo in the East causing ethnic politics among the three regions.¹⁴⁹ In 1963 Nigeria was reorganised from three regions to four with the Mid-Western Region created from the Western Region. The 1963 re-organisation was meant to ensure even development in the country to curb minority fear of domination by the majority groups in the three Regions prior to 1963.¹⁵⁰ This was a very important step in curbing majority-minority conflicts, as the majority-minority conflicts in Nigeria had at the time, according to Onyeoziri, become an important aspect of the National Question in Nigeria.¹⁵¹ The non-integration of the regions led to the Biafra civil war and the breakup of the regions into states by then military ruler General Gowon.¹⁵² In 1967 the country was re-organised from four regions to 12 states. This progression from creating regions to state creation, according to Nolte, was "aimed at breaking up the dominance of the majority ethnic groups and hoped to create national unity through greater centralization."¹⁵³ What was the effect of division of the regions into states? Horowitz rightly noted that the division of the regions into states effectively diffused the conflict between the regions although the ethno-nationalistic conflict did not go away.¹⁵⁴ The re-organisation continued in

¹⁴⁹R. Suberu., *Federalism and Ethnic Conflict in Nigeria* (Washington DC: United States Institute for Peace Press, 2001) p. 23-25

¹⁵⁰ S. Lagunju., 'Politics of State Creation: Any End to Demand?' In HEADLINES< No.273, Lagos, A Publication of Daily Times, Nigeria, 1996, p. 45

¹⁵¹F. Onyeoziri., *Alternative Policy Options for Managing the National Question in Nigeria* (John Archers Publishers Ltd in collaboration with Programme on Ethnic and Federal Studies (PEFS), Department of Political Science, University of Ibadan, Ibadan, 2002) p. 13-16

¹⁵²R. Suberu., (2001) Ibid. p. 86

¹⁵³ I. Nolte., 'Federalism and Communal Conflict in Nigeria' *Regional & Federal Studies*, vol.12, no. 1, 2002, p. 171-192 [174]

¹⁵⁴D.L Horowitz., *Ethnic Groups in Conflict* (2nd edition. Berkeley: University of California Press, 2000) p. 612

1976, from 12 to 19 states, in 1987 from 19 to 21 states and in 1991 from 21 to 30 states and finally in 1996 from 30 to 36 states. The government attempts to manage these conflicts through state creation and Local Government creation has served to keep the country together as a single unit.¹⁵⁵

To reiterate, the Nigerian State is a federal State with a capital territory, 36 states and several Local Government Areas. Some scholars such as Adeniyi¹⁵⁶ and Lijphart¹⁵⁷ argue that for a federation to work well, internal borders should be divided through ethnic geography of constituent groups to accommodate national diversity so that one group does not capture the central government. Other scholars such as Horowitz¹⁵⁸ and Filippov¹⁵⁹ have argued that a federation should be divided into major ethnic groups and sub-divided into a larger number of constituent units so as to weaken ethnic politics. However, Basta has noted that fragmentation of regions might be more destabilizing of a federation where there is prior history of a political entity where the elite of the group might stand to lose political powers with such separation.¹⁶⁰ He emphasised however that such separation is possible when the elite group's interest is protected. For the Yoruba in the West, sub-division of the group did not meet with resistance because, as will be recalled in chapter three, the Yoruba were never a single political unit. Thus, when they formed the ethno-nationalistic unit the Egbe Omo Oduduwa in 1945, it was on a cultural basis not a political basis that was aimed at eliminating intra-tribalism among the Yoruba with the Action group party being formed.¹⁶¹ Awolowo's idea of a federal state was on the basis of national self-determination for the Yoruba group not on past historical tradition of Yoruba groups' individual autonomy. Awolowo thus recommended that only groups who shared a general experience and "known to be capable of working together harmoniously"¹⁶² should be put together. If we follow Awolowo's idea of federalism, the Ife and the Modakeke as part of the Yoruba could be united politically under the broader national Yoruba civilization but because they do not share similar historical experiences and are known not to work together since the pre-colonial era, they should not be

¹⁵⁵R. Suberu., (2001) p. 17

¹⁵⁶K. Adeniyi., *Federalism and Ethnic Conflict Regulation in India and Pakistan* (New York: Palgrave Macmillan, 2007) p. 19

¹⁵⁷A. Lijphart., *Democracy in plural societies: A Comparative Exploration*. New Haven (Yale University Press, 1977) p. 42

¹⁵⁸D.L Horowitz., (2000) Ibid. p. 604

¹⁵⁹M. Filippov et al., *Designing Federalism: A Theory of Self-sustainable Federal Institutions* (New York: Cambridge University Press, 2004) p. 271

¹⁶⁰K. Basta., The State as a Symbol or a Means to an End: Internal Border Changes in Multinational Federations. *Nations and Nationalism* vol. 20. no. 3, 2014, p. 459-480 [462]

¹⁶¹O. Awolowo., *Awo: The Autobiography of Chief Obafemi Awolowo* (Cambridge University Press, 1960) p. 168

¹⁶²O. Awolowo., (1960) Ibid. p. 177

brought together as one group politically. This is in line with Basta's point that in relation to the Yoruba, the State "was not a potent symbol of Yoruba nationhood, but rather an instrumental institution, through which party and group interests were to be pursued."¹⁶³ It follows that the Yoruba can be safely sub-divided into smaller groups such as into more states and Local Government Areas without expecting much resistance from other Yoruba groups provided the Ife elites' political interests are protected. Therefore, the Modakeke could be given their own Local Government Area without expecting resistance from the Ife provided the Ife's political interests are catered for by the State, such as respect for their Ooni and his traditional stool by not citing the Local Government to cover parts of the Ooni's palace.

To further encourage equality among groups in Nigeria, Osaghae noted that the quota system introduced to reflect the diversity of the nation in the late colonial era was varied and reintroduced as the federal character principle in 1979.¹⁶⁴ The federal military government of Murtala Mohammed and Olusegun Obasanjo during the transition from military rule to civilian rule in 1979, introduced the federal character principle into the 1979 constitution.¹⁶⁵ Afigbo supported this origin of the federal character when he wrote that "the term federal character is one of the inventions of the constitutional drafting committee (CDC) inaugurated by the late general Murtala Mohammed on 18th October 1975."¹⁶⁶ In order to care for the public needs of all groups in Nigeria, the 1979 Constitution clearly stated that the composition of government (national, state and local level) was to be done so as to recognise the diversity of the people within its areas of authority and the need to promote a sense of belonging and loyalty among all the peoples of the Federation of Nigeria.¹⁶⁷ The federal character principle according to Ekeh was mainly for "disadvantaged groups and areas to enable them to compete and catch up with more advanced areas and sectors of the nation."¹⁶⁸ According to Olayode, the coming of democracy and the introduction of the federal character principle was met with high hopes of guaranteeing "the peaceful resolution or management of ethnic, religious and other identity conflicts"¹⁶⁹ However, rather than resolve them, Nigeria

¹⁶³K. Basta., (2014) Ibid. p. 473

¹⁶⁴E.E Osaghae., *Crippled Giant: Nigeria Since Independence* (Hurst & Co. Publishers Ltd., 1998) p. 115

¹⁶⁵ Section 14(3) of the 1979 Constitution of Nigeria

¹⁶⁶A.E Afigbo., *Federal Character: Its Meaning and History* in P.P Ekeh & E.E Osaghae., (eds) *Federal Character and Federalism in Nigeria* (Ibadan: Heinemann Educational Books, 1989) p. 3-18[3]

¹⁶⁷Section 14(3) (4) 1979 Constitution of Nigeria

¹⁶⁸P.P Ekeh., The Structure and meaning of Federal character in Nigerian political system in P.P Ekeh & E.E Osaghae., (eds) 1989, p. 19-44 [38]

¹⁶⁹K. Olayode., 'Pro-democracy Movements, Democratization and Conflicts in Africa: Nigeria, 1990-1999' *African Journal of International Affairs* vol. 10. No. 1&2, 2007

has witnessed a high level of communal and religious conflicts.¹⁷⁰ Today, the federal character principle of equal representation, is enshrined into section 14(3)(4) of the 1999 Constitution which provides that:

14 (3) The composition of the Government of the Federation or any of its agencies and the conduct of its affairs shall be carried out in such a manner as to reflect the federal character of Nigeria and the need to promote national unity, and also to command national loyalty, thereby ensuring that there shall be no predominance of persons from a few States or from a few ethnic or other sectional groups in that Government or in any of its agencies.

14 (4) The composition of the Government of a State, a Local Government council, or any of the agencies of such Government or council, and the conduct of the affairs of the Government or council or such agencies shall be carried out in such manner as to recognise the diversity of the people within its area of authority and the need to promote a sense of belonging and loyalty among all the people of the Federation

The above sub-sections of the constitution were designed to protect group rights and to prevent any group from dominating other groups of the federation and to foster national unity. As lofty as this idea is, rather than resulting in the unity of the groups, Onyeoziri rightly noted that the federal character principle had “caused a lot of tension among the different federating units in the country.”¹⁷¹ The federal character thus creates dual loyalties, one as a Nigerian citizen, two, and most importantly as a member of a group fighting for the benefit of his group. Hagher noted that for Nigerians their loyalty is more towards their groups rather than the State.¹⁷² According to Gberevbie and Ibietan, “the federal character principle reinforces the integrity of those sub-structures instead of the general structure.” The obvious effect on the groups in Nigeria is a negative one, as each group is loyal to the needs of his immediate group rather than to the needs of the entire State. In the case of the Ife-Modakeke conflict, the federal

¹⁷⁰C.A Kwaja., ‘Strategies for Rebuilding State Capacity to Manage Ethnic and Religious Conflict in Nigeria’ *The Journal of Pan African Studies* vol. 3. no. 3., 2009

¹⁷¹F. Onyeoziri., (2002) *Alternative Policy Option for Managing the National Question in Nigeria* (Ibadan: John Arches Publishers, 2002) p. 17

¹⁷²I. Hagher., *Beyond Hate and Violence: Understanding the Tiv Struggle for Citizenship Rights and Social Justice in Nigeria* (Ibadan: Caltop Publications, 2002)

character principle helps to strengthen the need for separation of the groups to bring development to the different groups.

In Nigeria, the present 1999 constitution provides that all groups are equal by reason of their citizenship in Nigeria as derived in section 25-32 of the constitution. Section 42 specifically provides that:

Section 42 (1)

A citizen of Nigeria of a particular community, ethnic group, place of origin, sex, religion or political opinion shall not, by reason only that he is such a person: -

(a) be subjected either expressly by, or in the practical application of, any law in force in Nigeria or any executive or administrative action of the government, to disabilities or restrictions to which citizens of Nigeria of other communities, ethnic groups, places of origin, sex, religious or political opinions are not made subject; or

(b) be accorded either expressly by, or in the practical application of, any law in force in Nigeria or any such executive or administrative action, any privilege or advantage that is not accorded to citizens of Nigeria of other communities, ethnic groups, places of origin, sex, religious or political opinions.

(2) No citizen of Nigeria shall be subjected to any disability or deprivation merely by reason of the circumstances of his birth.

The above provisions put all groups in the same level in Nigeria with regards to devolution of power. However, being a Nigerian citizen is circumvented by the constitutional provisions that encourage and sustain inequalities between groups such as indigene/settler relations promoted in the constitution. For example, section 147 of the 1999 constitution provides that:

147. (1) There shall be such offices of Ministers of the Government of the Federation as may be established by the President.

(2) Any appointment to the office of Minister of the Government of the Federation shall, if the nomination of any person to such office is confirmed by the Senate, be made by the President.

(3) Any appointment under subsection (2) of this section by the President shall be in conformity with the provisions of section 14(3) of this Constitution: - provided that in giving effect to the provisions aforesaid the President shall appoint at least one Minister from each State, who shall be an indigene of such State.

As indicated above, sub-section 3 limits access to positions and opportunities to indigenes of an area and the inability to prove one is an indigene of an area means one cannot enjoy such rights.¹⁷³ Although, sub-section 3 limits the issue of indigene to political appointments and not land use, the mere introduction of the word indigene demonstrates the government sustaining a segregation between citizens of Nigeria on the basis of first settlers. The constitution did not provide a definition for indigene. Thus, regardless of the citizenship of Nigerians, the constitution does not give everybody equal rights in the country. Suberu observed that the reason for Nigeria's federation is not to share power broadly within states, rather it is to accommodate ethnolinguistic, religious diversity of Nigeria, and the communal competition for access to state-controlled rewards and resources.¹⁷⁴ This standard of devolution of power by the Nigerian State on the basis of group interest has not led to the unity of the various ethnic groups. Rather it has led to conflict between local groups and has laid the foundation for indigene-settler problems in Nigeria.¹⁷⁵ This thesis argues that this may have influenced the Ife attitude toward Modakeke use of land for farming regardless that the government treat both groups as the same people. Bamidele and Ikubaje had advised that the constitution should be reformed to give all citizens equal rights in all states of Nigeria including land and resources rights on the basis of length of stay not on indigene status.¹⁷⁶ Implementing such advice will mean that the Modakeke can farm the lands they had farmed for hundreds of years without fear of reprisals from the Ife and any threat of war by both groups.

From the above discussion, it is apparent that the federal character principle in post-colonial Nigeria encourages exclusion of subordinate groups who are not indigenes in accessing

¹⁷³O. Bamidele & J. Ikubaje., *Positions of Citizens Forum for Constitutional Reform of the 1999 Constitution* (Lagos: CFCR, 2004) p. 76

¹⁷⁴Suberu, R.T., (2001) *Federalism and ethnic conflict in Nigeria*. Washington DC: United States Institute for Peace Press p.4

¹⁷⁵Adesoji, A.O., & Alao, A., (2008) Indigeneship and citizenship in Nigeria: Myths and the realities. *The African Symposium* Vol. 8. No. 2 p. 97-107 at p. 103

¹⁷⁶O. Bamidele & J. Ikubaje., (2004) *Ibid.* p. 81-84

resources and even land.¹⁷⁷ As a result, there are unequal exchanges and continued internal colonialism between groups. In fact, Mamdani stressed that “[e]ven with the Colonial power gone, we keep on defining every citizen as either a native or a settler”¹⁷⁸ The problem with such dual citizenship identity and loyalty is that some become privileged and this inevitably leads to conflict such as that of the Ife-Modakeke with the settler community wanting emancipation from the privileged native community.¹⁷⁹ Describing the situation in the best of ways, Mamdani stated that the State has developed “the culture of entitlement as a form of Justice.... the bearers of mainstream nationalism have succeeded in redefining yesterday’s natives into postcolonial settlers and postcolonial natives.”¹⁸⁰

It can safely be argued that the Nigerian State is guilty of reproducing such dual identities which create and fuel conflicts between ethnic groups. In its Federal character system incorporated into the Constitution, people are inevitably made to stand by their ethnic identity before national identity because the ethnic identity pays more than being a Nigerian. Mamdani finally noted that “...given the way “federal character” is defined, every ethnic group in Nigeria is compelled sooner or later to seek its own ethnic home, its own native authority, its own State in the Nigerian Federation.”¹⁸¹

What has been the general result of all government efforts to curb group conflicts in Nigeria? Schwarz provides an answer that:

“... in Nigeria, as in any Country composed of several ethnic groups, there is conflict between the desire to overcome ethnic hostility and separation and the desire to retain the culture of various ethnic groups and avoid stamping out individuality in the name of national unity.”¹⁸²

¹⁷⁷J.M Esman., *Ethnic Politics* (Ithaca, New York: Cornell University Press, 1994) p. 19

¹⁷⁸M. Mamdani., ‘Beyond Settlers and Native as Political Identities: Overcoming the Political Legacy of Colonialism’ *Comparative Studies in Society and History* vol. 43. no. 4. Oct. 2001, p. 651-664 [659]

¹⁷⁹ The 1999 Constitution, in breach of human rights laws, treats Nigerian citizens differently from each other depending upon whether they are indigenes or settlers. Yet the Federal government, in seeking to ignore the conflict, insists that the Ife and the Modakeke do not have any different status from each other but that they are a single people. This is contradictory: the government is ignoring the Constitution and, in leaving the Constitution un-amended, yet ignoring it, the government is continuing the triggers for the conflict between the Modakeke and the Ife. This is discussed in Chapter 4.

¹⁸⁰ M. Mamdani., (2001) *Ibid.* p. 660

¹⁸¹ M. Mamdani., (2001) *Op cit.* p. 661

¹⁸² F.A.O Schwarz., *Nigeria: The Tribes, The Nation or the Race the Politics of Independence* (The Massachusetts Institute of Technology Press, 1965) p. 7

Also, Mustapha argues that creation of states has not removed inequality among minority groups but has reproduced the inequalities among these groups.¹⁸³

In contrast, showing the success of the federal character principle, Osaghae stated that:

*“...for as long as states continue to be the major units for distributing federal power and the principle of ‘federal character’ is upheld, the days when major groups were relevant competitors for power are past and gone”*¹⁸⁴

Otiite also noted that:

*“...in the distribution of federal positions and resources based on the ‘federal character’ principle, the majorities retain the controlling shares in the federation. But certainly, the minorities have a more enhanced access to power today than they had under the regions.”*¹⁸⁵

The above discussions demonstrate that granting greater autonomy to groups in Nigeria by creating more states and Local Governments is not always a successful way of resolving the problem. However, increased autonomy has placed minorities in a better position than in the colonial period and promises to both manage and resolve group conflict of self-determination such as the Ife-Modakeke conflict. The issue of indigene-settler relationship incorporated into the constitution does not mean that the separation of the Ife from the Modakeke by means of a Local Government Area is not feasible. Suberu made a poignant point, that creation of states in Nigeria has meant the fragmentation of existing units not the incorporation of new units.¹⁸⁶ Therefore, land rights by the Ife do not mean that the Modakeke cannot conduct their political affairs independently of the Ife, because all the political re-organisations that have taken place in Nigeria have involved the division of existing groups not the creation of new ones so as to affect land rights. Besides, the Modakeke have held political positions in the governance of Modakeke while still part of the Ife for example, Chief Oloyede and Mr Ladun Oyemade have had the opportunity to act as chairman of the Ife divisional district in the long history of the Ife division.¹⁸⁷

¹⁸³ A.R Mustapha., *Ethnic Structure, Inequality and Governance in Nigeria* (UNRISD Research Proposal, 2002)

¹⁸⁴ E.E Osaghae., ‘Ethnic Minorities and Federalism in Nigeria’ *African Affairs* vol. 359. April 1991, p. 237-258 [258]

¹⁸⁵ O. Otiite., *Ethnic Pluralism and Ethnicity in Nigeria* (Shaneson Ibadan, 1990) p. 250

¹⁸⁶ R.T Suberu., (2001) *Ibid.* p. 15

¹⁸⁷ Political Offices and Patronage. 17 April, 2013 Online: <http://www.modakeke.info/2013/04/17/political-offices-and-patronage>

The above discussion has demonstrated the precedence of the Nigerian State's use of state and Local Government creation as a means of managing group conflicts in the past, although not entirely successfully. The question that arises is whether the present constitution and democratic setting allows for Local Government creation for the Modakeke as a solution to the Ife-Modakeke conflict and who bears the responsibility of creating the Local Government. The next sub-section examines the role of the Federal Government in creating Local Government for the Modakeke.

5.10 The Role of the Federal Government of Nigeria in Local Government Creation

Section 7 (1-6) of the Nigerian constitution 1999 guarantees the existence of Local Governments in Nigeria. The primary responsibility for the creation of Local Government in Nigeria lies on the state government as provided for in section 8 of the constitution.¹⁸⁸ Interestingly, section 8(5) and (6) makes the Federal government, via the National Assembly, responsible for the creation of a Local Government.

Section 8 (5)

An Act of the National Assembly passed in accordance with this section shall make consequential provisions with respect to the names and headquarters of State or Local Government areas as provided in section 3 of this Constitution and in Parts I and II of the First Schedule to this Constitution.

Section 8 (6)

For the purpose of enabling the National Assembly to exercise the powers conferred upon it by subsection (5) of this section, each House of Assembly shall, after the creation of more Local Government areas pursuant to subsection (3) of this section, make adequate returns to each House of the National Assembly

By the provisions of section 8, Omoruyi noted that the National Assembly has to rationalise Local Government creation or else the action of a state in creating a Local Government will be null and void.¹⁸⁹ Although the National Assembly involves the Federal Government in the creation of Local Government in Nigeria, their functions are supposed to be a formality by

¹⁸⁸ Discussion of the role of the Osun state to create Local Government in chapter 6

¹⁸⁹ Omoruyi, in A. Ogunna., *A Handbook on Local Government in Nigeria* (Lagos: Federal Government Printer, 1996) p. 14-150

means of section 8 (5). However, the fact that the constitution has entrusted the states with the legal responsibility for creating Local Government Areas and also involved the Federal government in the process has limited the state's rights towards Local Government creations.¹⁹⁰ Considering that the states have the legal responsibilities to create Local Government Areas in Nigeria, the Osun state of Nigeria to which the Ife and the Modakeke belong is then expected to be in a position to create a new Local Government area for the Modakeke to end the Ife-Modakeke conflict. It should be noted here that the reality at the moment is that the Federal government has tried to withhold the creation of new Local Government Areas in the country by refusing any revenue allocation to them. This makes the Local Government an extension of the federal government and not a third tier of government.¹⁹¹ A perfect example is the actions of the Federal government through the National Assembly refusing to act to assent to the creation of new Local Government Areas according to section 8 (5) of the constitution. In *Attorney General of Lagos State v, The Attorney-General of the Federation*,¹⁹² the Supreme court held that: "The Plaintiff has the power under S.7 (1) and 8(3) of the Constitution to create new Local Government areas..." While the Lagos state government was confirmed to have the power to create Local Government Areas within Lagos state, the Supreme Court further held that:

"The Plaintiff has the power under the Constitution to create new Local Government but the Local Governments so created will not take effect or come into operation until the National Assembly passes an Act to amend Section 3(6) and part of the First Schedule to the Constitution"

"So far, the Local Government Areas recognised by the Constitution are those contained in part I of the First Schedule to the Constitution"

The decision of the Supreme Court that until the National Assembly amend the list in the first schedule, the new Local Government created by the Lagos state government will not take effect, renders the exercise of Local Government creation by the Lagos state almost futile. It has also been argued that the listing of the names of the existing local governments

¹⁹⁰ E. Gboyega., *Inter-governmental Relations in Nigeria: Local Government and the 1979 Constitution* in E. Okoli., (ed) *Proceeding of the National Conference on the New Local Government in Nigeria*, June 1980. p. 69

¹⁹¹ Okoli, M., (2005) *Local Government Administrative System: An Introductory and Complete Approach*. Onitsha: Abbot Books Ltd. p. 4&5

¹⁹² *Attorney General of Lagos State v The Attorney-General of the Federation* (2004) Supreme Court. 70/2004. Judgement Delivered by Muhammadu Lawal Uwais CJN. Online: <http://www.nigeria-law.org/Attorney-General%20of%20Lagos%20State%20V%20Attorney-General%20of%20the%20Federation.htm>

demonstrates that the number of Local Government Areas in the constitution cannot be increased without constitutional amendments in accordance with section 9 of the Constitution on the amendments of the constitution. Ogunna for example argues that since the Local Governments' names are already entrenched in the Constitution, they cannot be altered without constitutional amendments.¹⁹³ It follows that the recommended creation of the Modakeke Local Government Area would be futile if the Federal government refused to amend the 1999 Constitution in the first schedule. It then remains in the power of the Federal government to make the creation of a Local Government for the Modakeke a reality.

5.11 Conclusion

This chapter has established the end of colonial rule and the beginning of the modern State of Nigeria. It has shown that the modern State of Nigeria became an independent State on October 1st 1960. However, it did not become a republic until 1963. The chapter has provided a brief history of the modern-day Ife-Modakeke conflict and has demonstrated that the modern cause of the conflict involves land and lack of independence for the Modakeke. The government has tried to resolve the problem of majority- minority problems in Nigeria by the use of military intervention and by establishing committees. In addition, the Constitution and other laws from 1960 were analysed in relation to their impact on the Ife-Modakeke conflict and dispute resolution abilities. The economic structure of the modern State that encourages revenue allocation from the federal account with very little revenue generation by the states and Local Government Areas have increased the need for the Federal Government to look into revenue allocation to sustain Local Governments and make it possible for economic separation of ethnic groups through Local Government creation. Otite noted that there are new gains from maintaining separate ethnic identities such as political offices and economic assets.¹⁹⁴ Therefore, "[s]ocial groups which have existed together as parts of other groups now assert their own historical and cultural exclusiveness."¹⁹⁵

The analysis in this chapter has led to the conclusion that the modern Nigerian State has intervened inadequately by means of military intervention in the Ife-Modakeke conflict to end the violence and through its laws and conflict resolution strategies. This chapter has demonstrated, by means of examples and records from the modern Nigerian State's activities,

¹⁹³ A. Ogunna., *A Handbook on Local Government in Nigeria* (Lagos; Federal Government Printer, 1996)

¹⁹⁴ Otite, O., (2000) *Ethnic Pluralism Ethnicity and Ethnic Conflicts in Nigeria*. Shaneson C.I. Limited Ibadan. p. 24

¹⁹⁵ Otite, O., (2000) *Ibid*. 24

that the modern State has impacted negatively by retaining a customary land tenure system through the Land Use Act and, by so doing, has sustained the hierarchy between native Ife indigenes and settler Modakeke groups. However, land rights do not need to stop the separation of the two groups because the Ife can still retain ownership of the customary lands used by the Modakeke, with the Modakeke having administrative control of the area they occupy by means of a Local Government area. The recommendations of this thesis are that the 1999 Constitution of Nigeria be amended to give all individuals in Nigeria equal access to power and resources by removing the word 'indigene' in section 147 and replacing it with 'citizen' which gives equal opportunity to all Nigerians regardless of where they live within the country and regardless of whether they or their forebears have moved to where they now live. This is, in part, because the word 'indigene' makes later settlers, second-class citizens,¹⁹⁶ which should not be the spirit of the constitution. The chapter also reveals that the system of revenue allocation in Nigeria encourages groups to be autonomous and separate and as a result, as long as Federal revenue continues to be the main source of revenue for Local Governments, the federal government continues to hold the key to separation of the Modakeke from the Ife to make the new Local Government a possibility. Also, it is the only way to ensure that the Modakeke feel that they are fairly dealt with economically in the Ife. Having established that the Federal government has the ability to ensure that a Local Government is created to end the Ife-Modakeke conflict by assenting to an application from the Osun state for the creation of a Local Government for the Modakeke and by providing the necessary revenue allocation to enable the Local Government to thrive. The next chapter examines necessity, power and feasibility of the state governments to create Local Government Areas with special reference to the Osun state government in order to end the Ife-Modakeke conflict.

¹⁹⁶O. Olakunle, I. Joseph & O. Segun., 'Indigene-settler Relationship in Nigeria: A Case Study of the Igbo Community in Lagos' *Afro Asian Journal of Social Sciences* vol. vii. no. iii, 2006 Quarter III p. 3

6. CHAPTER SIX: THE POWER, NECESSITY, AND FEASIBILITY OF STATE GOVERNMENTS WITHIN NIGERIA TO CREATE LOCAL GOVERNMENTS, AND THE RESPONSIBILITY OF THE FEDERAL GOVERNMENT OF NIGERIA TO ENSURE THAT OSUN STATE CREATES A LOCAL GOVERNMENT FOR THE MODAKEKE

6.1 Introduction

This chapter focuses broadly on the power of state governments in Nigeria to create Local Government governments, on the necessity and the feasibility of doing so for the Modakeke, and on the responsibility of the sovereign Federal government to intervene. More narrowly, the chapter focuses on five issues. First, whether states within the Federal Republic of Nigeria have the legal power to create Local Governments. Second, whether Osun State has the legal power to grant the Modakeke its/their own Local Government. Third, whether, in light of the law and the wider political, economic and demographic circumstances in Nigeria, there is the necessity for Osun state to create a Local Government for the Modakeke which is truly independent of the Ife. Fourth, whether, there being the legal, political, economic, and demographic necessity for such a Local Government for the Modakeke, it is feasible for Osun state to create such an authority and one which is permanent. And, fifth, whether the Federal government can and should intervene.

The contention is that if Osun state has the legal power to create a Local Government for the Modakeke but either, first, Osun state takes the view that it is not necessary or feasible for it to do so in the circumstances or, second, fails to exercise any proper decision-making function on the issue, then the issue becomes one for the Federal government either to instruct Osun state to act on so as to create the necessary authority, or for the Federal government to take the matter into its own hands. If, for whatever reason, Osun state does not create a separate, effective, and permanent Local Government for the Modakeke or if Osun state is instructed by the Federal government to create such an authority but still Osun state fails to do so-- then the matter should be escalated to the Federal government for a final and effective decision in favour of the Modakeke.

Chapter 5 has analysed the power of the Federal government in regard to the creation of states in the context of the resolution of conflicts in Nigeria, and it has also analysed the necessity for, and the feasibility of the Federal government creating states for the resolution of majority-minority conflicts in Nigeria and assenting to the creation of a new Local Government by states. By contrast, this chapter deals with the decision-making of the state government in regard to the resolution of the Ife-Modakeke conflict by the creation of an effective independent Local Government for the Modakeke.

However, chapter 5 does not deal with the issue of the responsibility of the Federal government ensuring that Osun state creates a Local Government to end the Ife-Modakeke conflict. Osun state is an organ of the whole State for the purposes of international law¹ and its decisions are attributed to the sovereign State. It follows, therefore, that the decisions of Osun state in regard to the creation of a separate Local Government authority for the Modakeke must be assented to by the Federal government, and if there is a failure by Osun state, it is the responsibility of the Federal government to make the decision. These issues are dealt with in this chapter.

6.2 The Research Questions Answered in This Chapter

Based on the discussion in chapter 5, this chapter acknowledges the role of the Federal government in the creation of a new Local Government for the Modakeke and seeks to establish the power and feasibility of the Osun state creation of a new Local Government for the Modakeke. On this foundation, the discussions in this chapter aim to answer the following research sub-questions: is a Local Government an appropriate form of local governance in light of the problems which Nigeria has experienced with Local Government functioning; is it necessary for the Osun state government to create a Local Government for the Modakeke so as to resolve the Ife-Modakeke conflict by economic and political separation of the Modakeke from the Ife; is it feasible for the Osun state government to create such a Local Government for the Modakeke in light of the land tenure and land use issues affecting the Modakeke and the Ife; is it feasible for the Osun state government to create a separate Local

¹ Articles 4-11 of the International Law Commission's Articles on Responsibility of States for Internationally Wrongful Acts (2001) Online: http://legal.un.org/ilc/texts/instruments/english/draft_articles/9_6_2001.pdf. This Act will be subsequently referred merely as the "ILC Articles".

Government for the Modakeke in light of the impact (if any) which such creation might have on other state governments in Nigeria and on the Federal government; is it feasible for the Osun state government to create a separate Modakeke Local Government in light of repercussions locally and more widely within Osun state which might follow if the Ife are denied control over the people (the Modakeke) who occupy the Ife lands; in the event that the Osun state government declines without considering the matter or for improper or no reasons, or for reasons which would not be acceptable in international law, to create a Local Government for the Modakeke, either on the basis of there being no necessity or on the basis of it being infeasible, should the Federal government instruct the Osun state government to create a Local Government or should the Federal government create a Local Government for the Modakeke; and does the Federal government have an obligation in international law to assent to a Local Government created by Osun state as an organ of the Republic of Nigeria?.

6.3 The Problem and the Evidence Concerning a Local Government for the Modakeke

As already documented in chapter 5, the majority of the violent clashes between the Ife and the Modakeke in post-independence Nigeria have been as a result of refusals to grant the Modakeke a separate Local Government authority for themselves so as to eliminate the necessity for the two groups to encounter each other in regard to politics and economics.² This does not eliminate the necessity for the two groups to encounter each other in relation to land ownership and land usage. However, as this issue has been settled by the Supreme Court of Nigeria³ in favour of the Ife, there ought not to be any further tension in this regard, even though the Modakeke are likely to continue to be angered by the payment of Ishakole (as they still term it) or ground rent (as the Supreme Court terms it). It will be argued in this chapter that the Modakeke do not have to have tenure over the land they use in order to be granted a Local Government. It will also be argued that a Local Government for the Modakeke is an appropriate means for separating the Modakeke from the Ife

Leading studies on the Ife-Modakeke conflict almost always refer to the Modakeke quest for their own Local Government authority as one of the causes of the post-independence conflict

² R.A Asiyanbola., 'Ethnic Conflicts in Nigeria: A Case of Ife-Modakeke in Historical Perspective' *Journal of Humanities, Social Sciences and Creative Arts* vol. 5. no. 1, 2010, p. 61-78 [63]

³ See discussions in chapter 5.7

between the two groups. For example, Albert,⁴ Olutobi and Oyeniyi,⁵ Akinjogbin,⁶ Ogbara,⁷ Imobighe,⁸ Akanji,⁹ and Asiyanbola¹⁰ all discuss the lack of creation of a Local Government for the Modakeke as one of the causes of the Ife-Modakeke conflict. This is also supported by the interviews conducted by this Researcher among contemporary Ife and Modakeke groups in 2014. Some of the statements made by Ife and Modakeke participants are set out below. However, before the issues of necessity and feasibility are discussed, it is first appropriate to consider the suitability of a Local Government --rather than any other kind of entity-- to separate the Modakeke from the Ife.

6.4 Definition of Local Government and its Relevance to Group Independence

Although the Modakeke have repeatedly called for their own Local Government, it is essential to consider whether a Local Government is the appropriate form of organisation for them, and indeed for any other minority group of people wanting to be separated from their majority counterparts: in this conflict the Modakeke (minority) and the Ife (majority).

A Local Government has been defined as a political sub-division of a State legally constituted towards defined purposes with the powers to control local affairs such as taxes.¹¹ This definition implies that for the establishment of a Local Government there must be a constitutional or other legal basis for such action to be taken. It follows that, in general, groups in a State cannot arbitrarily declare themselves to be a Local Government without legal basis. This understanding is corroborated by the definition of a Local Government provided by the Nigerian Local Government Reform Handbook 1976 as: “Government at the local level exercised through Representative Councils established by law to exercise specific powers within defined areas.”¹²

⁴I.A. Albert., ‘Ife-Modakeke Crisis’ in O. Otite O & I.A. Albert., (eds) *Communal Conflicts in Nigeria: Management, Resolution and Transformation* (Spectrum Books Ltd, 1999) p. 145

⁵ O. Olutobi & A. Oyeniyi., *Modakeke from Grass to Grace* (Olutobi Ventures Osun State Nigeria, 1994) p. 2

⁶I.A. Akinjogbin., *War and Peace in Yorubaland 1793-1893*(Heinemann Educational Books, Nigeria, 1998) p. 14

⁷ N. Ogbara., *The Ife-Modakeke Crisis: Hope Betrayed? A Report on the Impunity and State Sponsored Violence in Nigeria* (World Organization Against Torture (OMCT) and Centre for Law Enforcement Education (CLEEN), 2002) p. 41

⁸T.A Imobighe., *Civil Society and Ethnic Conflict Management in Nigeria* (Spectrum Books Limited Ibadan, 2003) p. 159

⁹ O.O. Akanji., ‘Group Rights and Conflicts in Africa: A Critical Reflection on Ife-Modakeke, Nigeria’ *International Journal on Minority and Group Rights* vol.16. no. 1., 2009, p. 31-51[46]

¹⁰R.A Asiyanbola., (2010) *Ibid.* p. 63

¹¹ A. Ogunna., *A Handbook on Local Government in Nigeria* (Owerri: Versatile Publishers, 1996) p. 1

¹² Federal Republic of Nigeria, 1976 Guidelines on the 1976 Local Government Reforms. Government Printer Nigeria. p. 111

The above definition also emphasises the importance of a Local Government being legally defined and comprising a representative government at the grassroots of the population where grassroots individuals participate in its governance. The fact that a Local Government must be legally created demonstrates the importance of there being a constitutional provision for Local Government creation in Nigeria as well as there being a role for the Osun state government to create a Local Government for the Modakeke. It also demonstrates that the Modakeke declaring themselves to be a separate Local Government in the year 2000¹³ was an arbitrary and an unconstitutional act.¹⁴ Thus, the violence that resulted could have been avoided if at the time a legal process –and the right legal process-- had been used to create a Local Government for the Modakeke rather than by leaving the issue unattended to and, so, resulting in the arbitrary and illegal acts of the Modakeke. States must realise that, in order to avoid arbitrary and illegal acts, the State must ensure that local authorities are created for groups which need them. In the Modakeke case, a Local Government is needed for conflict resolution and prevention purposes. According to Bello-Imam “[t]o some countries in the Third World, it is the only semblance of authority known beyond the traditional institution.”¹⁵ In the case of the Ife-Modakeke beyond their traditional rulers, the next form of authority known to the people in modern Nigeria is the Local Government. Whether the Local Government is the most appropriate for the people is considered below. Bello-Imam argues, however, that “[l]ocal government is government at the local level”¹⁶ and not agents of local administration, whether of a State or national government in carrying out local administration. Bello-Imam thus shows the formal legal nature of a Local Government within a sovereign State. Further capturing the legal nature of a Local Government is the definition of Local Government by Oyediran as:

“Government in which popular participation both in the choice of decision-makers and in the decision-making process is conducted by the local bodies, which while recognizing the supremacy of the central government, is able and willing to accept responsibility for its decisions.”¹⁷

¹³ Nigeria: Ife, Modakeke Crisis: the Modakekes Raise the Stakes’ 6 March, 2002. Online: <http://www.modakeke.info/2013/05/23/nigeria-ife-modakeke-crisis-the-modakekes-raise-the-stakes/>.

¹⁴ The discussion can be found in chapter 5

¹⁵ I.B Bello-Imam., *The Local Government System in Nigeria* (College Press & Publishers Limited Lead City University. Ibadan, 2007) p. 1

¹⁶ I.B Bello-Imam., (2007) Ibid. p. 4

¹⁷ O. Oyediran., *Essays on Local Government Administration in Nigeria* (Lagos, Project Publishers, 1988) p. 8

The above discussion demonstrates that a Local Government is a legal and independent body which recognizes the supremacy of the central State while ensuring the independence of the different local authorities from one another. In the context of the Ife and the Modakeke, the alternatives to a Local Government are either a traditional entity¹⁸ or a legally constituted entity within a constitutionally created Local Government such as an area council of which 6 are listed in part 2 of the first schedule of the 1999. A traditional entity would not provide the Modakeke with the essential separation from the Ife because the Ife would continue to dominate the entity on account of the Ile Ife being the foundation of ancient Yoruba structures as discussed in chapter three. The alternative is an Area Office for the Modakeke within one of the local authorities dominated by the Ife. The first issue here is whether such an Area office is constitutionally authorised.

The creation of the Area Office for the Modakeke within a Local Government is legal according to the Constitution of Nigeria. Section 3 (6) of the 1999 constitution mentioned the 768 Local Governments in existence in 1999 when the Constitution came into force. Also, while Part 1 of Schedule 1 of the 1999 Constitution provides the list of the Local Government areas, Part 2 provides the list of names of the six area councils approved for the Federal Capital Territory in 1999 Constitution. The arrangement for an Area Office, unlike a Local Government authority, is not a form of independent local governance within the definition of a Local Government: it is not a distinct and separate form of government at the local level, but merely an administrative centre which does not provide a tier of autonomous Local Government which grants independence. For example, it would not be separation for the Modakeke from the Ife in regard to economic and political issues affecting the Modakeke locally. In the course of interviewing a Modakeke person who claimed to have served in one of the committees set up by the Federal government to resolve the Ife-Modakeke conflict in 1997, the researcher asked: What was the resolution that enabled peace between the groups? The middle-aged male responded:

“One of the resolutions is that the Modakeke people requested for a separate local area government should be set up for Modakeke (something they were denied for many years), the Ife people they requested for creation of a new state from the old Osun state. They agreed to set up an Area Office at Modakeke with all the functions of the Local Government pending when a Local Government will be created and the funds

¹⁸ As discussed in chapter three

to be taken from the State that was not pleasing to Modakeke because it was manipulated. The Modakeke had no option, the president was talking so they had to listen”¹⁹

The response of the interviewee shows that the Modakeke people were not pleased with an Area office being provided but because it was made, pending a full Local Government creation and a reconciliation effort by the State, they had no legal power to do otherwise.

Although the Modakeke had occupied political positions as part of the Ife government representing the Modakeke in the past, they have always complained of their minimal political progress and participation in local governance, even in the Ife.²⁰ A Modakeke interviewee in 2014 also stated that:

“Since 1977 Modakeke has remained three wards. There is a neighbouring town called Ipetumodu that had three wards now have seven wards while Ife have ten. We remain the same. We are marginalised.”²¹

In addition, according to Akanji’s research on the Ife-Modakeke conflict, the Modakeke have argued that the opposition of the Ife to the building of a secondary school in Modakeke and the upgrading of an existing Modakeke school is a proof of Modakeke being neglected and suffering economic setbacks in terms of infrastructures and development of the community.²²

Therefore, at best, an Area office for them could be referred to as agents of the Ife and not local governance and as a result, an Area Office for the Modakeke is not considered good enough to satisfy the autonomy sought by the Modakeke. From the comments of the Modakeke interviewees above, an Area Office while tending to pacify the Modakeke at the present time, was not sufficient to remove their perceptions of political and economic oppression from their Ife neighbours showing the necessity for a Local Government area for the Modakeke.

¹⁹ Modakeke Interview MMaM 7

²⁰ As reported by the Nigerian Tribune Newspaper in 1981, Part of the argument of the legal counsel for the Modakeke in the 1981 Judicial Panel of Inquiry set up by the Oyo state government for the Ife-Modakeke conflict was the suppression suffered by the Modakeke in the hands of the Ife. Ife however, refuted Modakeke argument pointing out that the equal representation in chairmanship of the Ife council as of 1981. See Nigerian Tribune Ibadan 13 May, 1981. p. 3

²¹ Modakeke Interview MMaM 8

²² See O.O Akanji., (2009) Ibid. p. 42

6.5 Self-determination by Local Government Self-rule

Obafemi and Ayakoroma, capturing the importance of Local Government and its development in a country, have noted that:

*“A top-bottom approach to development, one which focuses on the national while ignoring the sub-national and the local, is superficial and unwholesome...If the capital/headquarters are developed and the states and Local Governments, where the majority of the electorates resides, are underdeveloped, that kind of development is not only partial and lopsided but it is inconsequential and tokenistic.”*²³

In the case of Nigeria, up to 70% of Nigerians reside in Local Government areas²⁴ and, as Tonwe argues, in order to match the needs of all citizens, especially those at the grassroots, the central government needs a form of decentralization.²⁵ In addition, Obafemi and Ayakoroma, observe that “the real foundation for strong and substantial democracy in Nigeria lies in an effective, accountable and democratic Local Government system at the grassroots level.”²⁶

Further reasons for Local Government creation in Nigeria were identified by Aleyomi, as grassroots participation and administrative convenience so as to provoke development and to pursue the heritage and communal interest of the people.²⁷ These reasons ensure that groups are given the opportunity to promote self-rule, the absence of which as discussed in chapter five 5.7 has been one of the root causes of the Ife-Modakeke post-colonial conflict. And until that degree of self-rule is achieved by the Modakeke, it does not appear that they will be willing to allow peace to reign between the two groups. From the interviews conducted among the Ife and the Modakeke in 2014, the Researcher observed a significant difference between the Ife account of the causes of the Ife Modakeke conflict and the Modakeke account. Some apt comments from the Ife and the Modakeke participants set out below strongly show the Ife through all age grades recognising land and payment of Ishakole as the main causes of the conflict, while the Modakeke’s reoccurring response to the cause of the conflict is Local

²³ O. Obafemi & B. Ayakoroma., *Culture and Socio-Economic Transformation of Local Governments in Nigeria: Setting an Agenda for Development* (Ibadan Nigeria: Kraft Book Ltd., 2013) p. 9

²⁴ S.O Uhunmwuango., ‘Problems of Revenue Generation in Local Government Administration in Nigeria’ *AFRREVIJAH An International Journal of Arts and Humanities* Bahir Dar, Ethiopia vol. 2. no. 3, 2013, p.192-209 [194]; O. Obafemi & B. Ayakoroma., (2013) Ibid. p. 5 5

²⁵ D.A Tonwe., *Aspects of the Theory of Local Government* (Trust Publications Benin City Nigeria, 2007) p. 1

²⁶ O. Obafemi & B. Ayakoroma., (2013) Op cit p. 22

²⁷ M.B Aleyomi., ‘Local Government Administration in Nigeria: A Review’ *Africana* vol. 6. no. 2., 2013, p. 34-47 [39-44]

Government creation. It appears to the Researcher that the Ife simply do not recognise or want to accept the Modakeke's need for even a Local Government area. Some of the Ife responses to the question what is/are the cause(s) of the conflict? Are:

Ife Interview 26:

"Dispute over land"

Ife Interview 28:

"Modakeke not making payments to the Ife"

Ife Interview 36:

*"Modakeke people trying to take Ife land"*²⁸

Ife Interview 48:

*"Land dispute and Local Government area"*²⁹

Ife Interview 2:

*"The cause of the problem I think is that when the Modakeke refused to pay the Ishakole. If they were giving the land and they were to pay back in money or in kind to the Ife people, but a time came when the Modakeke people refused to pay the homage or the Ishakole, they said that they too had the right to the land. So, the Ife people would not accept since the Modakeke are settlers. As long as the Modakeke pay the Ishakole then there will be no problems."*³⁰

Ife Interview 51:

*"Conflict with the Modakeke started because they decided not to pay their dues to the Ife king and wanted to take land which wasn't theirs."*³¹

²⁸ Ife Interview IMaF 36

²⁹ Ife interview IMaM 48

³⁰ Ife interview IAF 2

³¹ Ife Interview IAF 51

Two responses from each Ife age group interviewed including male and female responses are shown above. A mere 18% of the Ife participants stated that the conflict was caused by the Modakeke's quest for Local Government.³²

As for the Modakeke, 61% of the Modakeke mentioned the quest for Local Government by the Modakeke as one of the causes of the Ife-Modakeke conflict. Some of the Modakeke interviewee responses are:

Modakeke Interview 16:

*"Land and Local Government"*³³

Modakeke interview 40:

*"Local Government"*³⁴

Modakeke Interview 8:

*"The most important thing that caused the conflict was the issue of Local Government."*³⁵

Modakeke Interview 9:

*"They [The Modakeke] said the Local Government is supposed to be in Modakeke instead of Ife"*³⁶

Modakeke Interview 17:

*"Local Government Creation"*³⁷

Modakeke Interview 37:

*"Ishakole and struggle for Local Government"*³⁸

Obviously, the quest for a separate Local Government area is stronger for the Modakeke than the Ife because unlike the former the Ife have their autonomy within Osun state and the

³² See the general coding of Ife and Modakeke responses in Appendix 7.

³³ Modakeke Interview MYaF 16

³⁴ Modakeke interview MYaF 40

³⁵ Modakeke Interview MMaM 8

³⁶ Modakeke interview MMaM 9

³⁷ Modakeke interview MAF 17

³⁸ Modakeke Interview MAF 37

Federal State. This difference shows the importance of critically analysing the feasibility of resolving the Ife-Modakeke conflict by creating a new Local Government for the Modakeke with particular consideration of the effect of such Local Government creation on the Ife and the wider citizenship of Osun state.

6.6 The Necessity for a Modakeke Local Government in Osun state

Local Government in Nigeria had a history long before Nigeria became a sovereign independent State in 1960 but, as shown in chapter 5, it has been successfully used to manage group conflicts in Nigeria. There are challenges to the desirability of creating further Local Governments in Nigeria, but it will be argued that the appropriate response is to expand the number of local authorities for reasons of development and conflict prevention rather than to prevent the creation of additional Local Government authorities.

Specifically, it will be argued that Osun state should create a Local Government (and not an Area Office) for the Modakeke, without taking into consideration the 774 Local Governments which exist under the Constitution throughout Nigeria.³⁹ Although the thesis acknowledges the general consensus that the majority of the existing Local Governments in Nigeria are not viable due to overdependency on Federal and state revenue, and because of mass corruption in Local Government administration, it is argued that this should not prevent the creation of one additional Local Government for the Modakeke, if they meet the legal requirement, for the greater good of preventing genocide in the Ife-Modakeke. As the demographic profile of Nigeria increases and changes there will be an increased necessity for more local authorities. Although the necessity for a Modakeke Local Government is based on conflict resolution and prevention rather than on demographics, this should not be a reason for preventing the creation of an additional Local Government to add to Nigeria's 774 authorities or Osun state's existing 30 local authorities.⁴⁰ The population growth since the 1991 census in Nigeria and the projection for future growth, shows population growth across Nigeria, Osun state, and Ife-East Local Government area of which Modakeke make up the majority.⁴¹ As the respective populations of Nigeria, Osun state, and the Modakeke and Ife grow, there will be a need for

³⁹ Section 3(6) of the Nigerian 1999 Constitution

⁴⁰ Local Government Areas Osun State: <http://www.osun.gov.ng/government/lgas>

⁴¹ The Nigerian census of 1991 placed Nigeria population as 88,992,220, 2006 as 140,431,790 and a projection for 2016 as 193,392,500. For Osun state the 1991 population was 2,158,143, for 2006 it was 3,416,959 and was projected to rise to 4,705,600 in 2016. For Ife-East Local Government area the 2006 population was 188,614 and projected of 2016 was 259,700. See Osun state Population growth available at <https://www.citypopulation.de/php/nigeria-admin.php?adm1id=NGA030>

additional local authorities, without which there is the possibility of increased conflict in Nigeria, Osun state, and between the Modakeke and the Ife.

The recommendation is, therefore, that the creation of one additional Local Government for the Modakeke should not be regarded as infeasible because of the existing number of local authorities in Nigeria or in Osun state. Feasibility should only be based on issues affecting the impact on the Ife and the Modakeke of having or not having a Local Government for the Modakeke.

Another feasibility issue for discussion is the impact on the Ife and by the Ife on the Modakeke if the Ife lose political and economic control over the people who occupy Ife lands. Although the argument will be that ownership of land is not a legal precondition for the granting of a Local Government, the loss of control by the Ife of the politics and economics associated with their land (Ife land) might be a good reason for Osun state to deny the Modakeke a Local Government, particularly bearing in mind that the Ife out-number the Modakeke.

The two feasibility issues which need further exploration are, first, the availability of traditional governance entities and, second, the legality and appropriateness of the Area Office which is available to the Modakeke at present. The first of these two issues are now examined by reference to the history of local governance by traditional rules (section 6.7). The second of these will be examined in section 6.8.

6.7 History of Traditional Governance in Nigeria and the Ife-Modakeke Conflict

As earlier pointed out in chapter three (in section 3.5.1), pre-colonial Yoruba groups including the Ife and Oyo (from which the Modakeke migrated) had their rulers (Obas) and chiefs who were responsible for governance and the judicial systems. These pre-colonial traditional rulers⁴² were very powerful, holding powers of life and death.⁴³ Speaking about the traditional ruler of pre-colonial Oyo, Atanda observed that “[i]t was an accepted philosophy of the society that while the Alaafin⁴⁴ was under obligation to respect the rights of members of royal

⁴² “A traditional ruler is a person who by virtue of his ancestry occupies the throne or stool of an area or who has been appointed to it in accordance with the customs and traditions of the area and whose throne has been in existence before the advent of the British in Nigeria.” See Nigerian Traditional Rulers: Conference conclusions of the National conference of Traditional Rulers held in Kaduna between 28-29 November, 1983. P. 1. Also, the old Bendel state of Nigeria, defines a traditional ruler as the “head of an ethnic unit or clan who is for the time being the holder of the highest traditional authority within the ethnic unit or clan and whose title is recognised as a traditional ruler’s title by the Government of the State.” See Bendel State Government: Traditional Rulers and Chiefs Law, 1979

⁴³ See discussions of social structure of the groups in chapter three

⁴⁴ Alaafin is often used as a title for the traditional rulers of the Oyo tribe

families as well as those of nobles and members of their families, he could trample with impunity on the rights of commoners.”⁴⁵ Dudley also noted the powers of a Hausa traditional ruler in pre-colonial era that: “The Emir was an almost absolute autocratic ruler who dealt directly with all his citizens...”⁴⁶

Regardless of the independent kingdoms and powerful rulers the colonial government met in Nigeria, by means of various Ordinances, such as the Ife Jurisdictional Ordinance⁴⁷ applicable to Ife and Ijebu, the colonial authorities extended English laws and judicial processes to the Yorubaland.⁴⁸ In an attempt to represent the various groups in the grassroots, in order to give the colonial administration a chance of succeeding among these powerful kingdoms, the colonial administration made use of the indirect rule⁴⁹ also known as the Native authority system.⁵⁰

Native Authority according to Perham is “a system by which the tutelary power recognizes existing African societies and assists them to adopt the functions of Local Government.”⁵¹ The Native Authority system thus had the representatives (resident officers) of the Colonizers on top of governance, the tribal chiefs next, funded by a native treasury and native courts.⁵² Ibieta and Ndukwe described the place the traditional rulers had in the Native Authority system prior to the modern Nigerian State in these words:

“In the 1930s and 1940s, Local Government was known as chief-in-council and chief-and-council, where traditional rulers were given the pride of place in the scheme of things.”⁵³

The legal basis of Native Authority was the Native Authority Ordinance of 1916 which appointed Native Authorities. Although, it has been argued that indirect rule through the

⁴⁵ J.A Atanda., ‘The Changing Status of the Alaafin of Oyo Under Colonial Rule and Independence’ in M. Crowder & O. Ikime., *West African Chief, Ile-Ife* (University of Ife Press, 1970) p. 212-230.

⁴⁶ S.J Dudley., *Parties in Northern Nigeria* (Frank Cass & Coy. London, 1968)

⁴⁷ Ife Jurisdictional Ordinance, no.2., 1904

⁴⁸ Letter of Captain Denton to Colonial Office Dated 26th January, 1899. National Archive Ibadan. CSO 1/3, IV

⁴⁹ Indirect rule meant that the local traditional rulers continued to rule their people while being answerable to the Colonial Powers. It is also referred to in this thesis as the Native Authority. The Indirect Rule covered the period between 1899 to 1900

⁵⁰ J.E Egbe., ‘Native Authorities and Local Government in Nigeria Since 1914’ vol. 19. Issue 3.,2014, p. 113-127 [113]

⁵¹ M. Perham., *Native Administration in Nigeria* (Oxford University Press, 1975) p. 345

⁵² A. Gboyega., *Political Values and Local Government in Nigeria* (Ibadan. Malthouse Press Ltd., 1987) p. 14

⁵³ J. Bietan & P. Ndukwe., ‘Local Government Administration in Nigeria and the Localist Theory: Exploring the Nexus Studies’ *Social Sciences and Humanities* vol. 1. no. 4., 2014, p. 130-139 [131]

native authorities best served the interest of the colonial administration,⁵⁴ the colonial government did help in resolving long standing conflicts in Yorubaland, and when the native authority system started, peace between the Yoruba groups was maintained. For example, an 18th century Yoruba ruler Adeyemi, the Alaafin of old Oyo Kingdom, with the greatest distress, called for assistance to the British colonial government in these words:

*"[w]ith all possible speed I beg that the Imperial Government...come to my help."*⁵⁵

Those frantic words show the failure of Yoruba traditional rulers to end violent conflicts between the Yoruba groups. Akinjogbin reported that, by 1862, militarism had overshadowed and undermined monarchy and the powers of rulers.⁵⁶ Adepegba has described the extent of the powers of the military over the rulers of the people, claiming that when there were claims of superiority among the Yoruba, they were decided in the battlefields.⁵⁷ With respect to this, Adepegba further noted that;

*"those who dictated the events of the period were in some cases not the rulers of the people; they were the soldiers of fortune to whom the rulers looked in the face of attack."*⁵⁸

Because the traditional rulers were overcome by the war situation in the Yorubaland, the British colonial administration tried to salvage the situation by introducing indirect rule, where the powers of the military were reduced by bestowing new chieftaincies on prominent military war lords and placing them under the existing traditional rulers.⁵⁹ It could be argued that it was these attempts by the colonial administration through the agreement of the traditional rulers that brought an end to the Yoruba wars in 1888. The restoration of traditional rulers to their authority through the native authority system, which has transcended to the Local Government system, led to the resolution of the Yoruba wars and therefore a precedent of Local Government system resolving conflicts among the Yoruba. However, the Local Government system was transformed and made a matter of regional government by the 1946

⁵⁴J.E Egbe., 'Native Authorities and Local Government in Nigeria Since 1914' IOSR Journal of Human and Social Science Vol. 19. Issue 3., 2014, p. 113-127 [115]; See also T. Falola., *Africa: Colonial Africa 1885-1939. Bol. 3.* (Caroline Academic Press, 2002) p. 74; I.B Bello-Imam., *The Local Government System in Nigeria.* College Press & Publishers Limited Lead City University, Ibadan, 2007) p. 177

⁵⁵Letter sent by the Alaafin to the British Government on October 15th 1881 in Johnson S., (1921) Ibid. p. 463

⁵⁶A. Akinjogbin., Ibid. p. 351

⁵⁷C.O Adepegba., (1986) Ibid. p. 80-81

⁵⁸C.O Adepegba., (1986) Op cit. p. 80-81

⁵⁹A. Akinjogbin., (1998) Op cit. p. 359

Constitution in response to the clamour for Nigerians to self-govern free from colonial administration, and this Local Government reform left the traditional rulers out of politics.⁶⁰

Obafemi Awolowo, who was the Action Group Ijebu-Yoruba leader in the colonial era, introduced the 1952 Western Region Local Government policy fashioned after the English Local Government Act 1933 of the United Kingdom which introduced a three-tier government; district, divisional and local councils.⁶¹ Each council was financially autonomous with ability to collect taxes, award contracts and employ its staff.⁶² The divisional council exercised authority over already created colonial divisions while the district councils exercised authority over related towns, and the local councils exercised authority over remote communities.⁶³ The demands of a modern State structure meant the restructuring of Local Government from the Native Authority systems to the new 1950's Local Government reforms. The traditional authorities in the new Local Government reform were greatly reduced from unlimited traditional leading powers under the native authority system to being controlled by the regional authorities.⁶⁴ Under the 1952 reform, the regional authority had powers to appoint inspectors to inspect the performance of the local councils. The traditional rulers no longer had the final say in matters of dispute resolution. The regional government could redefine their jurisdiction and alter their functions and could dissolve a local council for contravention of the Local Government laws.⁶⁵ For example, the Western Region 1952 Local Government law in section 2 defined chiefs as "any person recognised as a chief by the Lieutenant Governor."⁶⁶ It did not matter who the groups regarded as their chiefs, it was the appointment of the Governor that was recognised. The Local Government reform in the Western region by the governor led to dissatisfied Obas and chiefs of the local councils.⁶⁷ Also, Section 71 of the 1952 Western Local Government law provided the functions of the Local Government. Out of the 82 functions, none relates to autonomous traditional rulers being able to deal with land and dispute resolution. Sections 182 and 183 dealt with the right of Local Government to lease, mortgage or even sell land but only with the consent of the Regional

⁶⁰ I.B Bello-Imam., *The Local Government System in Nigeria* (College Press & Publishers Limited Lead City University, Ibadan, 2007) p. 179

⁶¹ J.C Okafor., 'Constitutional Challenges of Creating New Local Government Areas in Nigeria' *Common Wealth Journal of Local Governance* Issue 10: December 2011-June 2012. Online: [Http://epress.lib.uts.edu.au/ojs/index.php/cjlg](http://epress.lib.uts.edu.au/ojs/index.php/cjlg)

⁶² 1952 Western Region Local Government Policy vol. 503 CC2147-8

⁶³ J.C Okafor., (2012) Ibid.

⁶⁴ E.J Egbe., 'Native Authorities and Local Government Reforms in Nigeria Since 1914' vol. 19. Issue 3., 2014, p. 113-127 [117]

⁶⁵ T. Falola & A. Genova., *Yoruba Identity and Power Politics* (University of Rochester Press, 2006) p. 182

⁶⁶ The Western Region 1952 Local Government Law.

⁶⁷ T. Falola & A. Genova., (2006) Ibid. P. 183

Assembly.⁶⁸ Regardless of the dissatisfaction of the traditional rulers at the time, it can be argued that the Western Region Local Government law did not contribute to any fundamental increase in the conflict between the Ife and the Modakeke considering that there was only one violent episode of conflict between the groups prior to the colonial era and two violent episodes of the Ife-Modakeke conflict in the colonial era compared to the five episodes in the post-colonial era. Also, the Local Government law provided a unified system of local governance that removed traditional powers to deal discriminatorily in land issues. Therefore, although the 1950's reforms placed a cap on the authorities of the traditional leaders, it proved to be a positive step towards local governance because the traditional leaders had become financially irresponsible, hostile to new reforms, and had several rivalries among themselves.⁶⁹

Even though there were some structural changes in local governance between the 1950's and 1976, those changes were not nation-wide. It was the 1976 Local Government reform, initiated by the Federal military government, that was the most significant because it made a single tier government -the Local Government- an arm of the Federal government.⁷⁰ In the forward to the guidelines for Local Government reform 1976, the rationale for the reorganization of the Local Government system is given as:

“...The Military Government was essentially motivated by the necessity to stabilize and rationalize Government at the Local level. This must of necessity, entail the decentralization of some significant functions of the State Government to Local level in order to harness local resources for rapid development. The Federal Military Government has therefore decided to reorganize Local Government as the third tier of governmental activity in the nation.”⁷¹

Ogunna⁷² summarised the rationale for the 1976 Local Government guidelines:

1. To unify Local Government systems in the country
2. To make Local Government an autonomous third tier of government
3. To institutionalise statutory allocations of resources to Local Governments

⁶⁸ The Western Region 1952 Local Government Law

⁶⁹ A.Y Aliyu., ‘Local Government Reform in Nigeria; An Overview’ in S. Kumo & A.Y Aliyu., (ed) *Local Government Reform in Nigeria* (Department of Research and Consultancy, Institute of Administration, Amadubello University Zaria, 1980) p. 29

⁷⁰ I.B Bello-Imam., *The Local Government System in Nigeria* (College Press & Publishers Limited Lead City University, 2007) p. 32

⁷¹ Federal Republic of Nigeria, 1976 Guidelines on the 1976 Local Government Reforms. Government Printer, Nigeria. Forward, p. 1

⁷² A.E Ogunna., *A Handbook of Local Government in Nigeria* (Owerri: Versatile Publishers, 1996) p. 146

4. To make Local Governments democratically administered.

Asaju added another point, namely; to make Local Governments a legal entity distinct from state and Federal government.⁷³ Before the 1976 reform, there was no single system for the Local Governments, thus each developed at a different pace.⁷⁴ However, with the coming of the 1976 reform, a single-tier Local Government was introduced as a third tier of government in Nigeria.⁷⁵ Ademolekun noted that the major difference between previous reforms of Local Government in Nigeria and the 1976 reform was the democratization of Local Government and making it a third tier of government in Nigeria.⁷⁶

The 1976 reform also introduced joint bank accounts for state and Local Governments for the funding of the Local Government which proved problematic because Local Government became exceedingly reliant on Federal and state government funding. Ojo and Adebayo noted that the gap between statutory allocation introduced by the 1976 reforms, the internally generated revenue of Local Government and the expenditures of Local Government had become so wide as to disrupt the functioning of the Local Government areas.⁷⁷ Ikeanyibe noted that “[a]llocations to Local Governments were cornered through the Joint Local Government Accounts, and states engaged in many other actions that subverted the autonomy of Local Governments.”⁷⁸ As a result, the Local Governments do not get the appropriate funding to cover their expenditure.

Furthermore, the population criteria identified in the Local Government reform 1976 provided that viability for a Local Government was set at a population of 150,000-800,000 residents.⁷⁹ This has been criticised for its failure to even out the local administrations as some Local Governments are too large while others are relatively small. However, although the Modakeke are a minority in the Ife, with a smaller population than the Ife, (600,000⁸⁰ and 300,000.⁸¹)

⁷³ K. Asaju., ‘Local Government Autonomy in Nigeria: Politics and Challenges of the 1999 Constitution’ *International Journal of Advanced Legal Studies and Governance* vol. 1. no. 1., 2010, p. 98-113 [102]

⁷⁴ B. Nwabueze., *Federalism in Nigeria under Presidential Constitution* (London: Hurst & Co., 1982) p. 20

⁷⁵ L. Ademolekun., ‘The Idea of Local Government as a Third Tier of Government’ in L. Ademoleun & L. Rowland., (ed) *The New Local Government System in Nigeria* (Heinemann Educational Books (Nigeria) Limited, 1979) p. 3

⁷⁶ L. Ademolekun., (1979) *Ibid.* p. 3

⁷⁷ E.O Ojo & P.E Adebayo., ‘The Politics of States: Local Government Creation and Nigeria’s Search for Geo-Political Balancing’ *African Research Review* vol. 2. no.3., 2008, p. 334-367 [351]

⁷⁸ O.M Ikeanyibe., *Federalism, Constitutionalism, and Local Government Autonomy in Nigeria*. *Mediterranean Journal of Social Sciences* (MCSER Publishing Rome-Italy, 2016) p. 383-393 [387]

⁷⁹ A. Gboyega., ‘Local Government Reform in Nigeria’ in P. Mahmood., (ed.): (John Wiley Sons, 1983)

⁸⁰ National Population Commission Census 2006. Online : <http://www.population.gov.ng/index.php/publications/140-population-distribution-by-localgovernment-statistics>

⁸¹ [Http://www.modakeke.org](http://www.modakeke.org)

respectively, there are smaller Local Government areas in population size in Nigeria such as Bakassi Local Government in Cross River with a mere 31,641 population, and Ilejemeje in Ekiti State with 43,459.⁸² Even within Osun State Ifedayo Local Government is made up of 37,508.⁸³ This puts the Modakeke in a favourable position for a Local Government.

Asaju has noted that, because of the rivalries between the Federal government and the state government, no elections were held for Local Governments from 1979 to 1983.⁸⁴ Nigeria went back into military rule from 1983 to 1999, and the next reorganisation of Local Government was only in 1999 when the 1999 Constitution made the Local Government a third tier of government. The effect of the 1999 Constitution on Local Government creation and administration in Nigeria is discussed below, but it can be noted here that the issue of population size has been carried forward to the present day.

The 1976 guidelines were incorporated into the 1979 Constitution and subsequently into the current 1999 Constitution by virtue of sections 7(6) a, 7(6) b and 162(6) and 162(7). Section 7 gave legal existence to Local Government as a tier of government. Section 7(6) makes provision for their financing from Federal government and the state. The impact of the reform (as incorporated into the 1979 and 1999 Constitutions) on the legality of the creation of a Local Government by Osun state in Nigeria will be discussed under the sub-heading below.

6.8 The Legality of a Local Government by Osun State

As pointed out in the earlier discussion in section 6.4 above, the 1999 Constitution, in section 3 and the first schedule, listed 774 Local Government authorities and 6 Area Offices. The 1976 Local Government reform, which was incorporated into the 1979 Constitution and is incorporated into the present 1999 Constitution by virtue of sections 7, 8, 162 of the Constitution as well as the list of Local Governments in the fourth schedule of the constitution, makes the creation of a Local Government by states a possibility but with mounting challenges in funding and administrative difficulties that must be addressed by the Federal government. As will be discussed later in this chapter, the Osun state government, although in a legal position to create a Local Government for the Modakeke to end the conflict between the Ife

⁸²Federal Republic of Nigeria 2006 Population and Housing Census Priority Table Vol. IV Population Distribution by age and sex (state and Local Government area) National Population Commission Abuja Nigeria 2010. Online: http://www.ibenaija.org/uploads/1/0/1/2/10128027/priority_table_vol_4.pdf

⁸³ Osun State Local Government Area Population census 2006 in <https://www.citypopulation.de/php/nigeria-admin.php?adm1id=NGA030>

⁸⁴ K. Asaju., 'Local Government Autonomy in Nigeria: Politics and Challenges of the 1999 Constitution' *International Journal of Advanced Legal Studies and Governance* vol. 1. no. 1., 2010, p. 98-113 [105]

and the Modakeke is very constrained, and the feasibility of such Local Government being created and sustained is very low.⁸⁵ The researcher found that the feasibility of resolution of the Ife-Modakeke conflict by means of a Local Government for the Modakeke lies not entirely in the hands of the authority of the Osun state government but on the Federal government of Nigeria which has the obligation of assenting to the creation of a Local Government according to the provisions of section 8 of the 1999 constitution. Therefore, the responsibility for further violence between the Ife and the Modakeke goes mainly to the Federal government as the acts and omissions of the organs of the State are attributable to the State.⁸⁶

As shown in chapter five, the thesis recognises that although constitutionally possible, the reality of the Osun state of Nigeria creating a Local Government for the Modakeke is based on the political inclination of the Federal government. However, the recommendation in this thesis is that the Federal and state governments need to cooperate for the sake of peace to make this happen and end conflict between the Ife and Modakeke because the Constitution can be regarded as ‘a set of rights, powers and procedures’⁸⁷ regulating the relationships between public authorities and citizens.

6.8.1 Effects of the 1999 Constitution on Local Government Creation in Nigeria

The year 1999 saw the return of Nigeria to democratic rule and the struggles between the states and the Federal government over the control of Local Government in Nigeria returned. However, it has been argued that Local Government lost autonomy because of the constant whittling down of Local Government powers by the states. As a result, the need for a Local Government in special circumstances in order to end a long-standing conflict does not shine through. Odo noted that:

“The excessive control of some Local Governments by the states has reduced them to local administration or local arms of state administration.”⁸⁸

⁸⁵ A. Idike., *Constitutional /Legal Basis of Local Government Administration in Nigeria: Current Problems and Future Challenges* (Lagos: Mangrove Publication, 1995) p. 8

⁸⁶ See discussions in later sections (6.9) of this chapter on attribution of acts of State organs on the State

⁸⁷ A. Idike., (1995) Ibid. p. 8

⁸⁸ L.U Odo., ‘Local Government and the Challenges of Grassroots Development in Nigeria’ *Review of Public Administration and Management* vol. 3. no. 6., 2010, p. 204-213 [210]

Section 7 of the 1999 Constitution ensures the system of a democratically elected Local Government Council that act as representative government at the grassroots. Section 7 of the 1999 Constitution provides:

Section 7 (1)

The system of Local Government by democratically elected Local Government councils is under this Constitution guaranteed; and accordingly, the Government of every State shall, subject to section 8 of this Constitution, ensure their existence under a Law which provides for the establishment, structure, composition, finance and functions of such councils.

The provisions of section 7(1) gives the mandate to states government to ensure the existence of Local Government areas in their states, thus giving the Osun state government the right to create a Local Government in Osun state subject to the process to be followed in section 8 of the constitution. The sub-section also shows the importance of a Local Government that is created under the confines of the law. Anything outside a legal creation fails to qualify as a Local Government in Nigeria. This underscores the importance of considering the legality of Osun state creation of a Local Government for the Modakeke.

Section 7 (2)

The person authorised by law to prescribe the area over which a Local Government council may exercise authority shall (a) define such area as clearly as practicable; and (b) ensure, to the extent to which it may be reasonably justifiable that in defining such area regard is paid to - (i) the common interest of the community in the area; (ii) traditional association of the community; and (iii) administrative convenience.

Sub-section (2) above makes it clear that in the event of a Local Government being regarded as necessary and feasible, an area over which such authority is necessary and feasible must be designated. This qualifies as a Local Government, and not an Area Office. This subsection outlines the criteria for Local Government creation. In summary, the criteria for the creation of Local Government in section 7(2) includes: a defined area of authority, common interest of the community, traditional association of the community and administrative convenience. A brief discussion of these criteria is presented below.

6.8.1.1 Defined Area of Authority

A new Local Government for the Modakeke must specify a defined area of authority of the Local Government area. As earlier discussed in chapter five, land matters have been settled by the Supreme Court in the case of *Elegushi v Oseni*⁸⁹ In that case, evidence of long possession of land in Nigeria is a proof of ownership. Also, in the case of *Chief Ojeme & other v Alhaji Momdu 11 & Others*⁹⁰ the Supreme Court upheld the right of a community to hold rights of occupancy as a general rule. Thus, it can be argued that the areas of land occupied by the Modakeke belong in law to the Modakeke on the basis of proof of long possession by the Modakeke. On the other hand, land being used for farming by the Modakeke, which belongs to the Ife, and which is subject to payment of ground rent (Ishakole) by Modakeke farmers, remains Ife land according to the case of *Alani Akanmu v Raji & Others*.⁹¹ Further, the Appeal Court in *Emmanuel Anizaku & 33 Others v The Governor of Nassarawa State & 2 Others*⁹² ruled that indigenes of a place are those who lived there at independence in 1960. However even if the Supreme Court does not make a judicial proclamation on the matter to the effect that the Modakeke are indigenes, it does not prevent the Modakeke from owning land which is contiguous with all other land owned by Modakeke inhabitants. Moreover, the Modakeke can continue to rent land from the Ife for farming with the payment of ground rent for such land use. However, the creation of a Local Government for the Modakeke must not include lands owned by the Ife and occupied by the Ife, including the area where the Palace of the Ife is situated because it is unthinkable that the Ife would have given the Modakeke their revered palace land or areas surrounding it to qualify the Modakeke to claim such lands through evidence of long possession. This would be an invitation for a repeat of the violent confrontation between the Ife and the Modakeke in 1996 when a Local Government was created for the Modakeke covering areas of the Ooni's palace.⁹³ But if the Local Government for Modakeke is created with defined land covering the Modakeke occupied land (not lands subject to ground rent) it is feasible that such Local Government will create little or no problem for the Ife.

⁸⁹ (2005) 14 Nigeria Weekly Law Report, pt. 945, p. 348

⁹⁰ (1983) 1Nigeria Law Report, p. 188

⁹¹ (1990)3 Nigeria Law Report p. 30

⁹² (2006) All Federation Weekly Law Report, pt. 303.

⁹³ See discussions in chapter 5.7

6.8.1.2 Traditional Association of the Modakeke and the Common Interest of the Community

The then Ooni of Ife in 2009 Oba Okunade Sijuwade, crowned the traditional ruler of the Modakeke, Ogunsua of Modakeke Francis Adedoyin, as Oba of Modakeke. He was subsequently presented with a staff of office by the then Governor of Osun state, Olagunsoye Oyinlola, in 2009.⁹⁴ The Ogunsua of Modakeke has his office in the traditional palace of Modakeke rulers in Modakeke. The entire Yoruba culture, inclusive of the Modakeke, boasts of many traditional institutions which include the office of the king, chiefs, deities, chief priest, and the Ogboni court.⁹⁵ Furthermore, the interviews conducted in the Ife and Modakeke by the Researcher in 2014 show that the Modakeke view their traditional ruler differently from the Ife. 92% of the Modakeke said that they had different traditional rulers from the Ife.⁹⁶ However, the official crowning of the Modakeke ruler by the generally revered spiritual leader of the Yoruba, the Ooni of Ife makes it more official and recognised by all Yoruba as a separate ruler for the Modakeke and increases the feasibility for a separate Local Government for the Modakeke.

6.8.1.3 Administrative Convenience

The administration of the Area Office presently in Modakeke, although not the same as a fully-fledged Local Government, is a sign of the need for administrative convenience in the locality, and a sign that a full Local Government is necessary for the Modakeke.

While section 7 (2) provides the criteria for Local Government creation, section 7(3) provides for some of the functions of the Local Government.

Section 7 (3)

It shall be the duty of a Local Government council within the State to participate in economic planning and development of the area referred to in subsection (2) of this section and to this end an economic planning board shall be established by a Law enacted by the House of Assembly of the State.

⁹⁴ The Vanguard Newspaper: 'Ooni Crowns Ogunsua of Modakeke' September 6, 2009. Online: <https://www.vanguardngr.com/2009/09/ooni-crowns-ogunsua-of-modakeke/>

⁹⁵ Elugbaju, A.S (2016) The Role of Traditional Institution in Managing Ife-Modakeke conflict. International Journal of Arts and Humanities. (IJAH) Bahir Dar-Ethiopia Vol. 5 No. 2. S/No 17. P. 9

⁹⁶ See Modakeke Coding's in appendix 14

The importance of a Local Government for the economic development of an area is stated clearly in section 7(3). Therefore, the struggle of groups for the creation of Local Government for economic development of their groups appears in line with the spirit of the law as outlined in section 7(3).

Section 7(4)

The Government of a State shall ensure that every person who is entitled to vote or be voted for at an election to House of Assembly shall have the right to vote or be voted for at an election to a Local Government council.

Section 7(4) gives the right to the states to conduct elections to Local Government offices. However, Section 9(1)(2)(3) of the Electoral Act 2010 provides:

Section 9 (1)

The Commission shall compile, maintain and update, on a continuous basis, a National Register of voters, in this Act referred to as the ("Register of Voters") which shall include the names of all persons entitled to vote in any Federal, State or Local Government or Area Council elections.

Section 9 (2)

The Commission shall maintain as part of the National Register of Voters, a register of voters for each State of the Federation and for the Federal Capital Territory

Section 9(3)

The Commission shall maintain as part of the National Register of Voters for each state and Federal Capital Territory a Register of Voters for each Local Government or Area Council within the State and the Federal Capital.⁹⁷

The above provisions demonstrate that it is only the Independent Electoral Commission (INEC) a Federal executive body, that is responsible for compiling and updating the voters' registers and making it available to the state electoral body.⁹⁸ By so doing the Federal

⁹⁷ Electoral Act, 2010. Federal Republic of Nigeria Official Gazette no. 64. vol. 97. Federal Government Printer, Abuja Nigeria.

⁹⁸ Electoral Act, 2010. Ibid

government is seen to play a role in Local Government administration in Nigeria outside the authority of the state to create Local Government areas.

Section 7 (5)

The functions to be conferred by Law upon Local Government council shall include those set out in the Fourth Schedule to this Constitution

Section 7 (6)

Subject to the provisions of this Constitution - (a) the National Assembly shall make provisions for statutory allocation of public revenue to Local Government councils in the Federation; and (b) the House of Assembly of a State shall make provisions for statutory allocation of public revenue to Local Government councils within the State.

The above provisions set the Local Government as a third tier of government in Nigeria. Section 7 (1-6) guarantees the existence of Local Governments in Nigeria, with the specific role of promoting economic development in their respective areas of occupation.

The right of the states to create Local Governments in their states is subject to the Federal government assenting to any Local Government creation before it can be submitted to the Federal Parliament for enactment as law. Section 8 of the Constitution provides for the powers of creating a Local Government area based on specific evidence provided by the local area in respect of which a new Local Government is requested. Section 8 (3) states:

A bill for a Law of a House of Assembly for the purpose of creating a new Local Government area shall only be passed if –

(a) a request supported by at least two-thirds majority of members (representing the area demanding the creation of the new Local Government area) in each of the following, namely - (i) the House of Assembly in respect of the area, and (ii) the Local Government councils in respect of the area, is received by the House of Assembly;

(b) a proposal for the creation of the Local Government area is thereafter approved in a referendum by at least two-thirds majority of the people of the Local Government area where the demand for the proposed Local Government area originated;

(c) the result of the referendum is then approved by a simple majority of the members in each Local Government council in a majority of all the Local Government councils in the State; and

(d) the result of the referendum is approved by a resolution passed by two-thirds majority of members of the House of Assembly.

Section 8 quoted above gives powers to the state governments in Nigeria to create Local Government areas in their states through the Federal House of Assembly. Therefore, the Osun state of Nigeria, by virtue of section 8 of the constitution, has the power to create a new Local Government area. However, as discussed in chapter five, the reality of Osun state creating a Local Government that will thrive for the Modakeke is dependent on the Federal government assenting to the creation of Local Government for the Modakeke.

Another difficulty with the creation of a new Local Government area for the Modakeke is the problematic nature of the funding of Local Governments in Nigeria. Section 162(3)(5)(7)(8) of the Nigerian constitution⁹⁹ provides for the funding of the Local Government areas to keep them operating effectively. However, Ola and Tonwe stated that the inadequate funding of Local Government has been a major problem in their running effectively.¹⁰⁰

Section 162 (3) of the 1999 constitution provides:

Any amount standing to the credit of the Federation Account shall be distributed among the Federal and State Governments and the Local Government Councils in each State on such terms and in such manner as may be prescribed by the National Assembly.

The above section makes provision for the funding of the Local Governments in Nigeria from the federal account. Olaoye identified this funding as one of the external sources of funding for Local Government in Nigeria, namely. federal account statutory allocation.¹⁰¹

Section 162 (5) provides

⁹⁹ The Constitution of the Federal Republic of Nigeria, 1999 Cap. C.23 Laws of the Federation of Nigeria 2004. Government Printer Lagos

¹⁰⁰ R.O Ola & D.A Tonwe *Local Administration and Local Government in Nigeria* (Lagos: Amfitop Nigeria Limited, 2005) p. 2

¹⁰¹ C.O Olaoye., 'Review of Revenue Generation in Nigeria Local Government: A Case Study of Ekiti State' *International Business Management* vol. 3 Issue 3, 2009, p. 24

The amount standing to the credit of Local Government Councils in the Federation Account shall also be allocated to the State for the benefit of their Local Government Councils on such terms and in such manner as may be prescribed by the National Assembly.

Section 162 (7) and (8) provides:

Each State shall pay to Local Government Councils in its area of jurisdiction such proportion of its total revenue on such terms and in such manner as may be prescribed by the National Assembly.

(8) The amount standing to the credit of Local Government Councils of a State shall be distributed among the Local Government Councils of that State on such terms and in such manner as may be prescribed by the House of Assembly of the State.

The above section gives states the right to maintain the funds being allocated from the federal account for Local Government councils. Ola and Tonwe had noted that the states in most cases fail to remit the 10% of federal funding to the Local Governments causing revenue problems for the Local Governments.¹⁰² Supporting Ola and Tonwe, Ikeanyibe noted that “[a]llocations to Local Governments were cornered through the Joint Local Government Accounts, and states engaged in many other actions that subverted the autonomy of Local Governments.”¹⁰³

Also, Orewa and Adewumi had noted that the states control over Local Government budgets with several restrictions on Local Government spending have led to problems in the effective functioning of Local Governments.¹⁰⁴ This raises questions regarding the need to have the Local Governments if they cannot function effectively. In addition, Ohunmwuango stated that “in most cases, the state government make several deductions, such as counterpart funding of projects, income tax (upfront) by Local Government employees (payee) etc before remitting to councils whatever it deems fit.”¹⁰⁵ Such actions by the states definitely lead to

¹⁰² R.O Ola & D.A Tonwe., (2005) Ibid. p. 203

¹⁰³ O.M Ikeanyibe., ‘Federalism, Constitutionalism, and Local Government Autonomy in Nigeria’ *Mediterranean Journal of Social Sciences* (MCSER Publishing Rome-Italy) 2016 p. 383-393 [387]

¹⁰⁴ G.O Orewa & J.B Adewumi., *Local Government in Nigeria: The Changing Scene* (Benin City: Ethiopia Publishing Corporation, 1992) p. 204

¹⁰⁵ S.O Ohunmwuango., ‘Problems of Revenue Generation in Local Government Administration in Nigeria’ *An International Journal of Arts and Humanities* Bahir Dar, Ethiopia vol. 2 no. 2, 2013, S/N 7 p. 192-209 [202]

revenue problems being experienced by the Local Governments which makes the feasibility of states creating a new thriving Local Government very slim.

Although, the fourth schedule of the 1999 Constitution gives the Local Government the right to participate in the government of the local people by providing and maintaining schools, health services and agricultural development among many other functions thus making a Local Government in Nigeria a separate government capable of existing on its own.¹⁰⁶ As shown in the above discussion section 162 of the 1999 constitution gives significant power to the Federal and state governments with regard to funding to determine the life and death of a Local Government area. According to Khaleed quoted in Oyedele et al: “There is no state of the federation of Nigeria where one form of illegality or the other is not committed with funds of Local Government.”¹⁰⁷

The above statement shows that it is not just the Federal government that encroaches on the autonomy of the Local Government through inadequate funding but the states are culprits of corruption and the financial ruin of the Local Government by means of hijacking the funds of Local Government allocated in the joint account maintained for the state and Local Government thereby preventing the Local Governments from carrying out their functions.¹⁰⁸ This being the case, it becomes very difficult to consider creating a new Local Government when the existing ones are unable to function due to financial constraints. This directly affects the feasibility of creating a new Local Government for the Modakeke because if the existing Local Government which the Modakeke are currently under, the Ife-east Local Government, is found to be struggling financially, the feasibility of creating an additional Modakeke Local Government to be put in such a financially difficult state will be very low.

Another aspect that affects the feasibility of Local Government creation in Nigeria is the encroachment of the autonomy of Local Governments leading to ineffective functioning of the Local Governments. For example, the Osun state to which the Ife and the Modakeke belong bears some responsibilities towards encroaching on the autonomy of Local Government in Osun by amending the Local Government law to give the state legality in appointing management committees for Local Governments rather than conducting Local

¹⁰⁶ J.A Yakubu., *Socio-Legal Essays in Local Government Administration in Nigeria* (Demyaxs Law Books. Ibadan Nigeria, 2003) p. 4

¹⁰⁷ S.O Oyedele & Others., ‘Local Government Administration and Natural Development in Nigeria: Challenges and Prospects’ *Ilorin Journal of Human Resources Management* vol. 1. no. 1., 2017, p. 142-154 [149]

¹⁰⁸ E.M Onyedikachi., ‘A Critique of 1976 Local Government Reforms: Its History, Structure and Impact after Forty Years in Operation in Nigeria’ *IOSR Journal of Humanities and Social Sciences* vol. 21. Issue 9, 2016, p. 22-28 [27]

Government elections.¹⁰⁹ Although, the Osun state government gave reasons for the amendment that economic recession meant the state could not conduct elections until 2018,¹¹⁰ such actions of preventing elections only tends to remove the possibilities of creating a new Local Government. Oyedele *et al* noted that the members of such committees are friends and loyalists of the state governors who create the local authorities,¹¹¹ making it easy to hijack the funding for Local Government authorities and not create new ones. Ohunmwuango also noted that “no transition committee chairman has the guts to question the governor of a state that magnanimously appointed him.”¹¹² It is no surprise then that Osun state have not created another Local Government for the Modakeke as they are not ready to fund such governments correctly as prescribed in the constitution.

The Federal government also get involved in unconstitutional activity by improperly withholding access to Local Government revenue as in the case of the Federal government withholding revenue for Local Governments in Lagos and other states that created new Local Governments in line with their mandate in the 1999 constitution.¹¹³ The solution to these challenges to Local Government was suggested by Nolte who discussed extensively the problem of the Federal government having majority control of revenue to the detriment of states and Local Government areas in Nigeria.¹¹⁴ Nolte has advocated the devolution of political initiative to the states including financial autonomy.¹¹⁵ The present system leaves it open to politicians to grant local authorities only when they, the politicians can see a way to obtaining more revenue. It can be argued that in the case of the Modakeke, there may be likelihood of politicians within the elite hierarchy standing to gain financially or politically from the Modakeke having a separate Local Government. However, financial autonomy for Local Government areas which should include greater revenue sources from internally generated revenue rather than state and federal funding will reduce any such tendencies for struggles for Local Government areas for purely financial gain. If this is not done, the country must expect Local Government creation and administration to be continually politicised.

¹⁰⁹Vanguard Nigeria : ‘Osun State Amends Local Government Administration Law’ 4 December, 2016 Online: <https://www.vanguardngr.com/2016/12/osun-assembly-amends-lg-administration-law/>

¹¹⁰Vanguard Nigeria: 4 December, 2016. Ibid.

¹¹¹S.O Oyedele & Others., (2017) Ibid. p. 150

¹¹²S.O Ohunmwuango., (2013) Ibid. p. 202

¹¹³ See discussions in chapter 5.8 federal government and Local Government creation.

¹¹⁴I. Nolte., ‘Federalism and Communal Conflict in Nigeria’ *Regional & Federal Studies* vol. 12 no. 1, p. 171-192 [183-186]

¹¹⁵I. Nolte., (2002) Ibid. p. 183-186

It then falls on the state but most especially the Federal government to ensure that the challenges of Local Government autonomy and funding are addressed to allow for the proper envisaged use of the Local Government as grassroot governance to bring the benefits to the grassroots and in the case of the Ife-Modakeke to allay the fears of the Modakeke of domination by the Ife. Whether the contemporary Ife and the Modakeke are in a position to allow the State to intervene in their conflict by creating a Local Government for the Modakeke is discussed below.

6.9 Implementation of a Recommendation for Osun State to Grant a Local Government to the Modakeke with the Assent of the Federal government

As shown in the history of the Ife-Modakeke conflict in chapter five, it must be noted that all recommendations for the creation of Local Government for the Modakeke by various committees have been ignored or inadequately dealt with, and have always led to violent conflicts between the Ife and the Modakeke.¹¹⁶ The question that this raises is whether there is a possibility that the Ife group will honour the Nigerian decision to create a Local Government authority for the Modakeke if the advice of this thesis is considered by the State. Although the question was not directly related to Local Government creation,¹¹⁷ and the conclusions drawn from the analysis below represent a very thin chance, the Researcher found a clue from the interviews conducted in 2014 by the Researcher among the Ife and Modakeke groups which related to the views of both the Ife and the Modakeke on their relationship with governments (Federal and state) in general terms not on the specific issue of Local Government creation.

The Researcher asked participants in Ife and Modakeke the question below:

Question on relationship between the groups and the Federal State
How do you understand the relationship between this village and the government of Nigeria?

Table 9 Responses on the Relationship between the State and the Ife and Modakeke Groups

¹¹⁶ See discussions of conflict triggers in the modern violent confrontations between the Ife and the Modakeke in chapter 5.5

¹¹⁷ On Hing sight the questions should have been directedly related to Local Government this the researcher regrets but learnt from it.

This question further justified the discussions of autonomy and internal self-determination in chapter 7. And the responses have assisted in two tasks: first, in determining the best advice to be given to the Ife and Modakeke groups in terms of accepting Federal State intervention through the creation of a separate Local Government for the Modakeke; and, second, in advising the Federal State on how best to channel their intervention efforts. The table above shows the questions that were put to participants in relation to the relationship between two groups and the modern State.

The responses below demonstrate that the Ife and the Modakeke respect the Federal and state governments and co-operate with both governments, while honouring their traditional rulers at the same time. Some of the responses of the Ife are:

Response 1:

“People listen to the king because they feel he has a better understanding but when push comes to shove, they go to the Local Government chairman.”¹¹⁸

Response 2:

“We have the Local Government chairman because each town is subdivided, and though they are directly under the government they are under the king, the Ooni of Ife”¹¹⁹

Response 3:

“The government is the head now”¹²⁰

Response 4:

“The government rules but the traditional rulers have a say about what happens”¹²¹

Response 5:

“Our Ooni still rules and the government is ruling towns”¹²²

¹¹⁸ Interview Iya8

¹¹⁹ Interview Ima 20

¹²⁰ Interview IA 47

¹²¹ Interview Ima 23

¹²² Interview Ima51

Response 6:

*“We cooperate with the government”*¹²³

The Modakeke responses were similar to the Ife. When asked to describe the relationship between the State and the tribes, four respondents illustrated it this way:

Response 7:

*“Kabiassi (king) is ‘typewriter’ and chairman Local Government is proprietor”*¹²⁴

Response 8:

*“No, the government is greater now”*¹²⁵

Response 9:

*“Cordial I will say even though the law does not officially recognise them.”*¹²⁶

Response 10:

*“The government is like the supreme but they give the chiefs opportunity to rule locally as traditional rulers”*¹²⁷

The responses above are statistically represented below in Table 2 below.

Sub-group	Relationship between community and Nigerian State
Ife	Co-operate=3 Good=8 Respect=2 Superior=0 N/A=13

¹²³ Interview Ima 53

¹²⁴ Interview Mma 4

¹²⁵ Interview Mya 16

¹²⁶ Interview Ma 19

¹²⁷ Interview Mma 25

Sub-group	Relationship between community and Nigerian State
	Others=24
Modakeke	Co-operate=13 Good=4 Respect=3 Superior=2 Others=13 N/A=7

Table 10 Questions on the Effect of the Conflict

The responses above can be perceived as indicators that the Ife are less likely to accept the creation of a Local Government for the Modakeke with only 3 participants saying that they cooperate with the government. The Modakeke on the other hand had 13 positive responses indicating that they cooperate with the government in general but not on specific points of Local Government creation. However, both groups acknowledged that the Federal State has authority over them regardless of their respect for their traditional rulers. It is argued in this thesis that either the Osun state government or the Federal government now must intervene by the creation of a new Local Government for the Modakeke, but with the knowledge that there might be some resistance from the Ife so that the change can be managed in a peaceful manner.

In addition, when the history of Local Government creation in Ile-Ife is taken into consideration as discussed in chapter 5, especially the very controversial Local Government created in 1996, we find that the Ife only protested against the creation of the Local Government for the Modakeke because the area comprised within the authority encompassed the palace of the Ife's revered traditional ruler. In a situation where a Local Government for the Modakeke is strategically located in Modakeke populated land and not in any inclusion of any revered place of the Ife, the likelihood of the Ife cooperating is very feasible.

Considering the above discussion, the Osun state government should seriously consider the criteria for Local Government creation for the Modakeke and, if they qualify legally, to make

sure that such Local Government is created as a permanent, separate institution for the Modakeke. As will be shown below, the Federal government is responsible for the inaction of the Osun state government for non-creation of a Modakeke Local Government area to prevent further encroachment on the fundamental human rights of both the Ife and the Modakeke and the prevention of future genocide from the conflict continuing. The responsibility of the Federal government to approve and partly fund the Local Government for it to survive to prevent further violent conflict is discussed below.

6.10 Attribution of Decisions of State Organs to the Federal State: Osun State

The significance of discussing the responsibility of the Federal government in supervising a Local Government creation for the Modakeke lies in the persuasion of the Federal government to take the lead in instructing the Osun state to create Local Government for the Modakeke especially as the Federal government have in the past refused to fund the new Local Governments created in Nigeria since 1999.¹²⁸ The Federal government cannot hide under the guise that Osun state have not created a Local Government for the Modakeke to help end the Ife-Modakeke conflict and prevent further violence. The reference text in this area is the International Law Commission's Articles on Responsibility of States for Internationally Wrongful Acts 2001.¹²⁹ These Articles were a recommendation to the General Assembly of the United Nations to be annexed in a General Assembly Resolution.¹³⁰ As a result, they are not binding law as such,¹³¹ however they are regarded as an essential piece of international law and have been "considered to reflect customary international law."¹³² The International Law Commission's Articles deals only with responsibilities of States.¹³³

¹²⁸ See discussions in chapter 5.7

¹²⁹ Responsibility of States for Internationally Wrongful Acts. Text adopted by the Commission at its fifty-third session, in 2001, and submitted to the General Assembly as a part of the Commission's report covering the work of that session. The report, which also contains commentaries on the draft articles, appears in Official Records of the General Assembly, Fifty-sixth Session, Supplement No. 10 (A/56/10). The text in this chapter is reproduced as it appears in the annex to General Assembly resolution 56/83 of 12 December 2001. Online at <https://www.law.umich.edu/facultyhome/drwcasebook/Documents/Documents/International%20Law%20Commission%202001%20Draft%20Articles%20on%20State%20Responsibility.pdf>

¹³⁰ Responsibility of States for Internationally Wrongful Acts. Text adopted by the Commission at its fifty-third session, in 2001, and submitted to the General Assembly as a part of the Commission's report covering the work of that session. The report, which also contains commentaries on the draft articles, appears in Official Records of the General Assembly, Fifty-sixth Session, Supplement No. 10 (A/56/10). The text in this chapter is reproduced as it appears in the annex to General Assembly resolution 56/83 of 12 December, 2001. Online at <https://www.law.umich.edu/facultyhome/drwcasebook/Documents/Documents/International%20Law%20Commission%202001%20Draft%20Articles%20on%20State%20Responsibility.pdf>

¹³¹ But many Articles are already law, and others will become recognised as law by the conduct of states

¹³² S. Talmon., 'The Responsibility of Outside Powers for the Acts of Secessionist Entities' *International and Corporate Law Quarterly* vol. 58, 2009, p. 493-517 [495]

¹³³ The ILC Articles does not cover international organisations. See Article 57 of the ILC Articles

The rules of attribution to a State of the conduct of individuals as they are reflected in this thesis are covered by Articles 1, 2, 4, 12-15 and 22-25 of the International Law Commission's Articles on the Responsibility of States for Internationally Wrongful Acts 2001.

Article 1 sets out the essential principle of attribution of conduct to a State in these words:

Every internationally wrongful act of a State entails the international responsibility of the State

Article 2 provides that:

There is an internationally wrongful act of a State when conduct consisting of an action or omission: (a) is attributable to the State under international law; and (b) constitutes a breach of an international obligation of the State.

Article 2 clearly shows that the conduct attributable to the State can consist of two elements, namely, actions or omissions.¹³⁴ Crawford rightly notes that these elements are both objective and subjective depending on the circumstances under consideration.¹³⁵ In the *United States Diplomatic and Consular Staff in Tehran* case,¹³⁶ the Court concluded that the responsibility of the Islamic Republic of Iran was entailed by the "inaction" of its authorities which "failed to take appropriate steps" to prevent harm, in circumstances where such steps were evidently called for.¹³⁷ This decision shows that the Federal government is responsible for the actions or inactions of the Osun state which result in an internationally wrongful act. Although, chapter seven will consider whether failure by the Federal State to prevent breaches of human rights in Nigeria in the context of possible genocide of the Ife-Modakeke people constitute an internationally wrongful act, this section sets the tune for detailed discussion in chapter seven.

Osun state is a political and administrative organ of Nigeria, as revealed by section 2(2) of the 1999 Constitution. As a result, the provisions of articles 4 of the Draft Articles on Responsibility of States for Internationally Wrongful Acts applies to Nigeria.

Article 4 provides:

¹³⁴ Draft articles on Responsibility of States for Internationally Wrongful Acts, with commentaries 2001. Online: http://legal.un.org/ilc/texts/instruments/english/commentaries/9_6_2001.pdf. p.35

¹³⁵ J. Crawford., *The International Law Commission's Articles on State Responsibility: Introduction, Text and Commentators* (Cambridge University Press, 2002) p. 82

¹³⁶ *United States Diplomatic and Consular Staff in Tehran Judgment*, I.C.J. Reports 1980. p. 31–32, parag. 63 and 67

¹³⁷ *United States Diplomatic and Consular Staff in Tehran Judgment*. Ibid

1. *The conduct of any State organ shall be considered an act of that State under international law, whether the organ exercises legislative, executive, judicial or any other functions, whatever position it holds in the organization of the State, and whatever its character as an organ of the central Government or of a territorial unit of the State*
2. *An organ includes any person or entity which has that status in accordance with the internal law of the State*

Article 4 quoted above establishes the basic rule of attribution of conduct of any of its organs to the State. According to the Commentaries to the draft Articles in the United Nations website:

*“Under many legal systems, the State organs consist of different legal persons (ministries or other legal entities), which are regarded as having distinct rights and obligations for which they alone can be sued and are responsible. For the purposes of the international law of State responsibility the position is different. The State is treated as a unity, consistent with its recognition as a single legal person in international law.”*¹³⁸

It does not matter whether organs of the State are part of the central government or not: conduct is attributable when an individual or organ is acting in an apparently official capacity.¹³⁹ The International Court of Justice (ICJ) has stated that:

*“According to a well-established rule of international law, the conduct of any organ of a State must be regarded as an act of that State. This ...is of a customary character...”*¹⁴⁰

So, the ICJ has referred to the actions of organs of State being attributable to the State as a well-established and customary international law. Therefore, the Osun state government, being the second tier of government in Nigeria (the Federal State government being the first tier), is an organ of the Nigerian State whose actions or omissions are therefore attributable to the Nigerian State where such acts or omissions constitute an internationally wrongful act.

¹³⁸ Draft Articles on Responsibility of States for Internationally Wrongful Acts, with Commentaries 2001. Ibid. p. 35.

¹³⁹ J. Crawford., (2002) Ibid. p. 99

¹⁴⁰ Difference Relating to Immunity from Legal Process of a Special Rapporteur of the Commission on Human Rights. Advisory Opinion. ICJ Reports 1991, p. 87 parag. 62.

The Nigerian State cannot, therefore, hide behind the inaction of Osun state even if Osun state gives reasons, or no reasons, for failing to act. Articles 12-15 cover internationally wrongful acts.

Furthermore, Article 12 provides that:

There is a breach of an international obligation by a State when an act of that State is not in conformity with what is required of it by that obligation, regardless of its origin or character.

Article 13:

An act of a State does not constitute a breach of an international obligation unless the State is bound by the obligation in question at the time the act occurs.

Articles 15:

The breach of an international obligation by a State through a series of actions or omissions defined in aggregate as wrongful occurs when the action or omission occurs which, taken with the other actions or omissions, is sufficient to constitute the wrongful act.

The question is whether the failure to grant internal self-determination to prevent genocide is a breach of an international obligation and what pleas are available to a State for not acting?

Article 25.

1. Necessity may not be invoked by a State as a ground for precluding the wrongfulness of an act not in conformity with an international obligation of that State unless the act: (a) is the only way for the State to safeguard an essential interest against a grave and imminent peril; and (b) does not seriously impair an essential interest of the State or States towards which the obligation exists, or of the international community as a whole.

2. In any case, necessity may not be invoked by a State as a ground for precluding wrongfulness if: (a) the international obligation in question excludes the possibility of invoking necessity; or (b) the State has contributed to the situation of necessity”

Articles 22 to 25 have counter-measures for not acting or acting against the international obligation of a State which the Nigerian government would need to consider. However, these measures are not considered in this thesis.

The 7th House of Representatives Federal Republic of Nigeria Committee Review of the 1999 Constitution, received more than thirty-five (35) requests for the creation of new states. The Committee's comment in their report was that:

“[n]one of the requests submitted to the Committee complied with the procedure for creation of States outlined in section 8 of the Constitution. Accordingly, the Committee was unable to treat any of these requests. The Committee however recognizes that the existing provision of the Constitution for the creation of new States is unclear and cumbersome. Accordingly, the Committee has clarified the process to make it easier.”¹⁴¹

Although this is not directly relevant to the issue of local authorities, this shows a positive indication of the possibility of more Local Governments being created in the future with the support of the Federal government of Nigeria. It might also be interpreted as evidence that the Nigerian legislature is aware of the inadequacy of the 1999 Constitution in regard to the governance structure of Nigeria, including the difficulties with the creation of local authorities. In the context of breach of its international responsibilities, to protect citizens from mass suffering due to war situations the international community might take cognisance of the Committee's comments.

6.11 Conclusion

The chapter has demonstrated the necessity and relevance of creating a Local Government for conflict resolution. The chapter has provided evidence from the Federal Constitution to show that the Osun state of Nigeria has the legal power to create a new Local Government authority for the Modakeke, and that it is both necessary and feasible for Osun state to do so notwithstanding, first, any consequences for the Ife, and from the Ife and, second, any demands for similar treatment by other Nigerian ethnic groups

¹⁴¹ The 7th house of representative's federal republic of Nigeria committee on the review of the 1999 constitution report on a bill for an act to further alter the provisions of the constitution of the federal republic of Nigeria, 1999; and for other matters connected therewith, July, 2013. Online: <http://placng.org/wp/wp-content/uploads/2016/04/Report-of-the-House-Committee-on-the-Review-of-the-1999-Constitution.pdf>.

Granted, there are very challenging obstacles to creating a Local Government area for the Modakeke by virtue of two statutory provisions: first, section 8 (3) of the Constitution that gives power to the Federal government to assent to the creation by a state of a Local Government authority area; and, second, section 162 and Part 1 of the First Schedule of the 1999 constitution on funding of Local Government authorities. However, these challenges are heightened more by political considerations on the part of the Federal government and state governments. It is therefore within the legal realms of the state government to resolve the Ife-Modakeke conflict by applying to the Federal government for a new Local Government area for the Modakeke but ultimately it is the Federal government's decision to allow such a Local Government to be created.

Having established in chapters 5 and 6 that it is both necessary and feasible for the Federal and state governments of Nigeria to create a new Local Government for the Modakeke to end the more than a century long conflict, the next chapter examines the feasibility of extending international pressure on the Nigerian State to end the Ife-Modakeke by all means including creating an effective and permanent Local Government for the Modakeke.

7. CHAPTER SEVEN: THE INTERNATIONAL OBLIGATION OF THE NIGERIAN STATE AND SEPARATION OF GROUPS: THE CASE OF IFE-MODAKEKE NIGERIA

7.1 Introduction

In chapters 5 and 6 it has been demonstrated that the Constitution of Nigeria discriminates between indigenes and settlers,¹ yet the Federal government treats the Ife (indigenes) and the Modakeke (settlers) as a single people despite the evidence that the two groups are distinct from each other.² It has been demonstrated in chapters 3 and 4 that there is no longer the possibility of separating the two groups by moving the Modakeke to new lands away from the Ife, and that the only viable way to separate them from each other is by economic and political separation *in situ*. Consequently, that means granting the Modakeke what they want, namely; their own separate and effective independent Local Government. Chapters 5 and 6 have also provided a demonstration that Osun state has the legal capacity to grant the Modakeke its own separate Local Government, yet it has not done so. And it has also been demonstrated in those latter two chapters, that the Federal government has responsibility for the acts and omissions of Osun state as an organ of State. The necessity for, and the viability of a separate Local Government for the Modakeke has also been demonstrated in chapter 6.

However, the feasibility of creating a Local Government for the Modakeke has not been without challenge. If Osun state were to grant a Local Government to the Modakeke, this might lead the Ife to retaliate in a violent way even though the likelihood is small. So, there is an argument which can be made on the part of the Ife to show that the land which they rent or lease to the Modakeke should be associated with political and economic control of the people (the Modakeke) who rent the land. However, it has been contended that there is no legal reason for an overlap between ownership and Local Government in order for the Modakeke to be granted their own Local Government. On the other hand, it is clear that leaving the Modakeke with no Local Government of their own, but only an area office and the limited powers of traditional rulers, is not the way to deal with the conflict between the

¹ See section 147 of The Constitution of the Federal Republic of Nigeria, 1999 Cap. C.23 Laws of the Federation of Nigeria 2004, Government Printer Lagos

² See discussions in chapter 5.4 on the relationship between Ife and the Modakeke in modern Nigeria, which included answers given to the researcher by both the Ife and the Modakeke participants.

two groups: no action by Osun state government and no action by the Federal State government --irrespective of their respective reasons-- is not a solution in the short or long term to a conflict which has been running for so long and which gives rise to frequent serious violent conflict.

The first argument in this chapter is that the sovereign State of Nigeria must be persuaded to act without reliance on, or reference to its internal laws and reasoning: as a member of its regional community and of the international community. Nigeria (through its sovereign government) should act so as to be in conformity with both regional and international law by granting internal self-determination to the Modakeke in order to avoid four possible outcomes: first, the African Union or the international community might put diplomatic pressure on the Nigerian State to end the Ife-Modakeke conflict permanently so as to prevent further injury and loss of life; second, the regional community or the international community may take slightly stronger action in order to force the Nigerian government to enforce the human rights of the Modakeke; third, even stronger action might be taken by the regional and international communities on the basis of breach by Nigeria of its international State Responsibility to prevent genocide or the likelihood of genocide; and, fourth, there could be military intervention by the African Union if authorised by the UN Security Council.

The analysis in this chapter provides proof and support for the overall hypothesis that the Ife and the Modakeke people, having been in conflict with each other over land, citizenship status and identity issues since pre-colonial times and with the frequency of violent conflict having increased since the end of colonialization, will continue to be in conflict with each other because they have not been effectively separated; and that economic and political separation of the groups is both a necessity and is feasible to resolve the Ife-Modakeke conflict.

The second argument is that the Nigerian government should not wait to be pressured by the international community and the African Union, but should act so as to create a new Local Government for the Modakeke, or should instruct Osun state to do so; and that whichever government acts to create the Local Government, must do so in an effective manner for the immediate and the long-term peaceful future of the Ife and the Modakeke: it must irrevocable unless replaced with a more effective arrangement.

It should be noted that, although the Modakeke might continue to argue about land tenure, the arguments in this chapter are not concerned with that argument. On the other hand, it can also be noted that the granting of a Local Government to the Modakeke might lead to their

argument about land tenure being treated as no longer an issue which causes tension and violent conflict. It is possible that the Modakeke accept the land tenure and land use as determined by the Court and that the added benefit of separation would be that the issue of land use ceases to be one which the Modakeke raise in future. However, it must be noted that there might be challenges for Osun state in making the Modakeke adhere to such a commitment for all time; just as Osun state might have a problem entrenching the Local Government into law. The international and regional laws which deal with the responsibility of the Nigerian State towards its citizens with regard to prevention of breaches of human rights, crimes of war and threat of genocide are considered below.

7.2 International and Regional Laws on the Nigerian State's Obligation Toward Groups

States are governed by national, regional and international laws.³ The governance of States by national and international law has been in place for several centuries (the starting point usually said to be Westphalia).⁴ But regional laws are probably new since World War II. In the case of Nigeria, the State has been subject to laws other than its internal law since independence in 1960. The pursuit of the intent of the Charter prompted by the experiences of World Wars I and II, has led to the prioritizing of Human Rights by all sovereign States subject to the UN Charter.⁵ The basic civil and political rights such as the right to life, right to own properties, and freedom from torture (*jus cogens*) are undoubtedly protected in International law ⁶as well as regional⁷ and national laws.⁸

The approach of studying the international law implications of the Ife-Modakeke conflict has been adopted by some Nigerian studies on the Ife-Modakeke conflict, such as Imobighe ⁹ and

³M. Dixon., *International Law* (6th edition. Oxford University Press, 2007) p. 4

⁴ Westphalia Treaty of 24 October, 1648 ended the thirty years of war in Europe and marked the start of international law of modern States. see A. Clapham., *Brierly's Law of Nations: An Introduction to the Role of International Law in International Relations* (Oxford Scholarly Authorities on International Law (OSAIL), 2012) p. 5

⁵ M. Dixon., (2007) *Ibid.* p. 4

⁶Various International Law Instruments protects these rights such as the Universal Declaration of Human Rights 1948 Online: <https://www.un.org/en/universal-declaration-human-rights/index.html>; Convention Against Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment. General Assembly Resolution 39/4610 December, 1984. Online: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CAT.aspx>; International Covenant on Civil and Political Rights 1966 (Adopted 19 December 1966, entered into force 23 March 1976) 999 UNTS 171

⁷African Charter on Human and Peoples Rights. 1986 Online: <http://www.african-court.org/en/index.php/documents/legal-instruments/basic-document>. Herein after referred to as the African Charter.

⁸Chapter IV of The Constitution of the Federal Republic of Nigeria, 1999 Cap. C.23 Laws of the Federation of Nigeria 2004. Government Printer Lagos

⁹ T.A Imobighe., *Civil Society and Ethnic Conflict Management in Nigeria* (Spectrum Books Limited Ibadan, 2003) p. 159

Akanji.¹⁰ However, this chapter is limited in its discussion of regional and international laws to some aspects of three related issues: first, the State's responsibility to protect; second, the State's responsibility to enable minority people to have appropriate internal self-determination; and, third, the State's obligation to ensure that individual and group human rights are not breached by itself (the State) or by any other entity within its territory. All three of these issues have been explored in great depth by many scholars¹¹ and, so, it is not within the ambit of the chapter to do more than apply the law to the omissions of the Nigerian Federal government and the Osun state government. In addition, although Nigeria is a third world country and the researcher recognises the vast array of research work that has been done by scholars on third world countries and the fight for contemporary rights of people of the third world countries.¹² This Thesis does not engage in third world analysis of international law (Third world Approaches to International Law - TWAIL) because of lack of space. So, this chapter focuses on the application of the general principles of responsibility to protect, internal self-determination, and human rights as they relate to intra-State group conflict between small groups of citizens.

The focus on these three aspects of international and regional laws is intended to answer the fifth research sub-question: what is the international and regional legal obligation of the Nigerian State to protect the Modakeke and the Ife from each other; to grant internal political and economic self-determination to the Modakeke; and to prevent the human rights of the Modakeke being breached by any individual or group of individuals (whether organs of the State or otherwise).

As already indicated in section 7.1 above, if the Nigerian State is or will be in breach of any one or more of its regional and international legal obligations by failing to prevent further violence between the Ife and the Modakeke, the main argument is that the regional and international communities can, and perhaps will, bring pressure to bear on the Nigerian

¹⁰O.O Akanji., 'Group Rights and Conflicts in Africa: A Critical Reflection on Ife-Modakeke, Nigeria' *International Journal on Minority and Group Rights* vol.16. no. 1., 2009, p. 31-51 [46] 6

¹¹ For detailed discussions of self-determination see T.D Musgrave., *Self-Determination and National Minorities* (Oxford University Press, 1997); D. Philpott., 'In Defence of Self-Determination' *Ethics* (The University of Chicago Press) vol. 105. no.2., 1995, p. 352-385.; J. Klabbers., 'The Right to be Taken Seriously: Self-Determination in International Law' *28 Human Rights Quarterly*, 2006, p. 186-206; R.M Ryan & E.L Deci., *Self-Determination; Basic Psychological Needs in Motivation, Development and Wellness* (New York: Guilford Press, 2017)

¹² Notable scholarly works on contemporary rights of third world countries includes R. D'Souza., *What's Wrong with Rights? Social Movements, Law and Liberal Imaginations* (London: UK Pluto Press, 2018); B.S Chimni., 'Third World Approaches to International Law: A Manifesto' *International Community Law Review London* vol.8. no.1., 2006, p. 3-27; M. Mutua., 'Change in the Human Rights Universe' *Harvard Human Rights* vol. 20., 2006, p. 3-2

government to put in place arrangements which will stop future instances of violence. In the worst-case scenario, failure of the Nigerian Federal government to act might result in military action within the territory of Nigeria when the next (and any subsequent) violence breaks out between the Ife and the Modakeke.

The first step in answering the research sub-question is to examine the foundations of the principle of R2P ('responsibility to protect') and to determine whether R2P is a customary law in the international domain, whether the principle overrides national constitutions and, if not, whether the principle is enough to put pressure on Nigeria to act to end the Ife-Modakeke conflict.

7.3 The Responsibility to Protect (R2P): Normative and Legal Foundations

According to the World Federalism Movement:

*"R2P is an emerging norm which sets forth that states have the primary responsibility to protect their populations from genocide, war crimes, crimes against humanity and ethnic cleansing, but that when the states fail to protect its populations, the responsibility falls to the international community."*¹³

The above statement emphasises three features of the R2P namely: one, that R2P is an emerging norm of international law; two, the primary responsibility to protect citizens from the four crimes mentioned above lies on the State; and, three, failure to protect citizens shifts the responsibility to the international community.

The first feature is that the principle of R2P is an emerging norm which is derived from the principle of sanctity of human life examined briefly under the historical foundation of the principle of R2P below.

7.3.1 R2P Historical Foundation

The protection of human lives and prevention of massacres has a long historical background dating back to the efforts of the international Red Cross established in 1864.¹⁴ The effects of

¹³ 'R2P Responsibility to Protect Engaging Civil Society' A Project of the World Federalism Movement-Institute for Global Policy. p. 5 <http://www.responsibilitytoprotect.org/files/R2Pcs%20Frequently%20Asked%20Question.pdf>

¹⁴'R2P- A Short History' United Nations Regional Information Centre for Western Europe. Online: <https://www.unric.org/en/responsibility-to-protect/26981-r2p-a-short-history>

the Holocaust¹⁵ also led to greater efforts at protecting human lives through the United Nations Resolution 260, 9 December 1948 on the Prevention and Punishment of the Crime of Genocide. The Holocaust was not the last to be seen of mass destruction of lives. After the holocaust came the mass famine in Biafra from the civil war in Nigeria in the 1960's,¹⁶ the Cambodian war¹⁷ and the 1994 Rwandan genocide,¹⁸ to mention a few.¹⁹ To prevent such mass atrocities from taking place within a State's internal territories, two doctrines appear to come into conflict with each other: the doctrine of State sovereignty and the doctrine of non-intervention. The International Court of Justice (ICJ), in the case of *United States v Netherlands*,²⁰ stated that:

*“Sovereignty in the relations between States signifies independence. Independence in regard to a portion of the globe is the right to exercise them, to the exclusion of any other State, the functions of a State”*²¹

The International Commission on Intervention and State Sovereignty (ICISS) went further to distinguish between external and internal sovereignty.²² While external sovereignty refers to the relationship between States, the ICISS defined internal sovereignty as “the capacity to make authoritative decisions with regard to the people and resources within the territory of the state.”²³ The independence of States is carried out both inwardly (within the State) and outwardly (between the State and other States in the world).

¹⁵ According to the Holocaust Encyclopaedia, the Holocaust was a systematic, bureaucratic, state-sponsored persecution and murder of six million Jews by the Nazi regime and its collaborators” See ‘Introduction to the Holocaust’ Holocaust Encyclopaedia by the United States Holocaust Memorial Museum. Online: <https://encyclopedia.ushmm.org/content/en/article/introduction-to-the-holocaust>.

¹⁶ Thousands of people in Biafra starved to death during the Nigerian civil war sparking international outrage. See ‘Moments in U.S Diplomatic History :The Famine in Biafra: USAID’S Response to the Nigerian Civil War’ Online: <https://adst.org/2014/05/the-famine-in-biafra-usaids-response-to-the-nigerian-civil-war>

¹⁷ ‘Cambodia Genocide 1975-1979’ Available in the Holocaust Museum Houston Online: https://www.hmh.org/ed_Genocide_Cambodia.shtml

¹⁸ ‘Rwanda: A Brief History of the Country’ Outreach Programme in the Rwanda Genocide and the United Nations. Online: <http://www.un.org/en/preventgenocide/rwanda/education/rwandagenocide.html>

¹⁹ There are also the Bosnian Genocide 1995 and Darfur 2003. See ‘Past Genocides and Mass Atriocities’ Online: <http://www.endgenocide.org/leaeen/past-genocids>

²⁰ *United States v Netherlands* (1928) Reports of International Arbitration Awards Island of Palmas Case. 4th April, 1928, vol. 2. p. 829-871. Online: http://Legal.Un.Org/Riaa/Cases/Vol_II/829-871.Pdf

²¹ *Island of Palmas case (United States V Netherlands)* (1928) Reports of International Arbitral Awards. Vol. II. p. 829-871 Online at http://legal.un.org/riaa/cases/vol_II/829-871.pdf

²² ICISS was set up by the Canadian Government in December 2001 and its Report was published by the International Development Research Centre Canada

²³ ‘ICISS (2001) Responsibility to Protect: Report of the International Commission on Intervention and State Sovereignty’ International Commission on Intervention and State Sovereignty. December 2001. Ottawa: International Development Research Centre. p. 12 Herein after referred to as ICISS.

Furthermore, Article 3(b) of the Constitutive Act of the African Union provides that:

The objectives of the Union shall be to “(b) defend the sovereignty, territorial integrity and independence of its Member States;”

The above provision arguably is an affirmation that any secessionist demands will be rejected by the African Union as a defence of the territorial integrity of Member States. More discussions of sovereignty were undertaken by Jackson²⁴ and Hobbs.²⁵ The point to make is that internal self-determination would be permitted.

Customary international law establishes respect for the territorial sovereignty of States through the doctrine of non-intervention in the international and domestic activities of a sovereign State, thus making non-intervention and sovereignty two sides of the same coin. For example, the United Nations Charter, to which Nigeria is a signatory, provides for the non-intervention of States in the internal and external affairs of another State.

Article 2(4) of the Charter of the United Nations provides that:

*All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations State.*²⁶

The provision of Article 2 (4) is clearly a rule in support of non-intervention of participating States in the domestic affairs of all other participating States. International courts have also promoted the principle of non-intervention. In *Nicaragua v United States of America*,²⁷ the ICJ reiterated the principles of refraining from the threat of use of force against the territorial integrity of other States and the duty not to intervene in matters within the domestic jurisdiction of other States.²⁸ In *Armed Activities on the Territory of the Congo (Democratic*

²⁴R. Jackson., *Sovereignty: Evolution of an Idea* (Polity Press Cambridge, 2007)

²⁵T. Hobbes., *Leviathan*. (Reprinted from 1651 (1979) Introduction by K.R. Minogue Everyman's Library. New York. Dent London, 1651)

²⁶Charter of the United Nations and Statute of the International Court of Justice, 1945. Online: United Nations Treaty Collections <https://treaties.un.org/doc/publication/ctc/uncharter.pdf>

²⁷(1986) Reports of the International Court of Justice (ICJ) August 1985- July 1986. General Assembly Official Records: Forty-First Session Supplement No. 4. (A/41/4) United Nations New York. online at http://www.icj-cij.org/Court/en/Reports/Report_1985-1986.Pdf

²⁸ *Nicaragua V United States of America* (1986) Ibid.

Republic of the Congo v Uganda)²⁹ the Court said that the Nicaragua case made it clear that States should not intervene in matters of other States whether by force or peacefully.³⁰

The provision of article 2(4) is clearly a rule of non-intervention of participating States in the domestic affairs of other participating States. To what extent does this apply to the African Union? Article 3(b) of the Constitutive Act of the African Union provides that the objectives of the Union shall be to: (a) achieve greater unity and solidarity between the African countries and the peoples of Africa; (b) defend the sovereignty, territorial integrity and independence of its Member States. Also, Article 4(g) of the Constitutive Act of the African Union provides that the Union shall function in accordance with the following principles: “(g) non-interference by any Member State in the internal affairs of another.” This is arguably a strong desire to protect Member States from secession movements and to ensure respect of state sovereignty.

Regardless of the international communities’ high regard for State sovereignty and non-intervention in the domestic matters of the State, certain situations have led to the call for the international community and regional communities to intervene in the internal matters of a State. Such situations were identified by Brownlie as Human Rights abuses, genocides, war crimes and internal displacement of people.³¹ According to Brownlie, the international community acknowledges that intervention is required for violations of Human Rights.³² Intervention could also be on humanitarian grounds, although this has been criticised by Weiss to be the use of force in disguise by arguing that Humanitarian interventions remain a dominant military reality of the current era.³³ Also, in *United Kingdom v Albania (Corfu Channel case)*,³⁴ the ICJ held that the right of intervention is a manifestation of the policy of force.

On the regional level, Article 4 (h) of the Constitutive Act of the African Union preserves the right of the Union to intervene in “a [m]ember State pursuant to a decision of the Assembly

²⁹ (2005) ICJ Reports.

³⁰ Democratic Republic of the Congo v Uganda 2005. Ibid. p. 164

³¹ I. Brownlie., *Principles of Public International Law* (6th edition. Oxford: Oxford University Press, 2003) p. 293; See also T. Zick., ‘Are the States Sovereign?’ *Washington University Law Quarterly* vol. 83, 2005, p. 229-337 [235]

³² I. Brownlie., (2003) Ibid. p. 235

³³ T.G Weiss., ‘Researching Humanitarian Intervention: Some Lessons’ *Journal of Peace Research* (Sage Publications Limited vol. 38. no. 4., 2001, p. 419-428) [422]

³⁴ (1949) ICJ Reports. p. 53. Online: [Http://www.icj-cij.org/Docket/Index.Php?P1=3&P2=3&Case=1&P3=4](http://www.icj-cij.org/Docket/Index.Php?P1=3&P2=3&Case=1&P3=4)

in respect of grave circumstances, namely: war crimes, genocide and crimes against humanity.” Article 4 (j) gives Member States “the right of Member States to request intervention from the Union in order to restore peace and security”³⁵ in other States. Packer and Rukare, however, point out that the “fact that intervention will require a decision by the Union’s Assembly of heads of States and the Government arguably raises the risk of inaction.”³⁶ In order to carry out their mandate, the AU through the Constitutive Act has established nine principal organs such as the Peace and Security Council, the Assembly (the supreme organ of the Union) and the Pan-African Parliament.

It is the Assembly of the African Union with the authority of the United Nations that decides on any intervention to take place.³⁷ The Assembly does not encourage military intervention, rather it calls on Member States to use all necessary political and moral support to help governments. For example, the AU in 2012 endorsed the deployment of a regional protection force to separate the warring parties in South Sudan, and to protect major installations and the civilian population in Juba.³⁸

It is no surprise that, when the North Atlantic Treaty Organisation (NATO) intervened in the former Yugoslavia in 1999, debates followed on the balance of intervention in the internal conflicts of States.³⁹ The need for balance of sovereignty and non-intervention in State affairs led the then Secretary General for the United Nations, Kofi Annan, to challenge the member States of the United Nations to find a balance between State sovereignty and the doctrine of non-intervention to enable the world to end such mass atrocities from occurring by being able to intervene in internal conflicts of States that have the likelihood of genocide and breaches of human rights. Kofi Annan noted:

³⁵ The Constitutive Act of the African Union adopted by the thirty-sixth ordinary session of the Assembly of heads of State and Government 11 July, 2000. Online: https://au.int/sites/default/files/pages/32020-file-constitutiveact_en.pdf

³⁶ C.A.A Packer & D. Rukare., ‘The New African Union and its Constitutive Act’ *The American Journal of International Law* (Cambridge University Press) vol. 96 no. 2., 2002, p. 365-379 [373]

³⁷ AU Assembly AU/Dec.612 (xxvii) Decision on the State of Peace and Security in Africa, 18 July, 2016.

³⁸ Assembly/AU/Dec.613 (xxvii) Decision on the situation in South Sudan Doc. Assembly/AU/5(xxvii)

³⁹ NATO took military action against Yugoslavia during the Kosovo war from March 24, 1999 to June 10, 1999 until the Yugoslavia armed forces withdrew from Kosovo and a UN peace keeping mission set up in Kosovo. According to the Human Rights Watch, the result of the air strikes was a death toll of between 489-528 people in Kosovo. See Human Rights Watch Report 2000 “The Crisis in Kosovo” Online at <http://www.hrw.org/legacy/reports/2000/nato/Natbm200-01.html>. Retrieved June 2018

“if humanitarian intervention is, indeed, an unacceptable assault on sovereignty, how should we respond to ...systematic violations of human rights that offend every precept of our common humanity?”⁴⁰

The responsibility to protect citizens, thus, is a doctrine that developed so as to overcome difficulties with the strict doctrine of sovereignty. Sovereignty comes with international responsibilities.⁴¹ According to Bellamy, sovereignty has implications which come with a responsibility.⁴² Evans noted that the Responsibility to Protect is the inward reconceptualization of the notion of sovereignty.⁴³ Early pioneers of the R2P are Deng *et al.*⁴⁴ who set out to convince the international community through the Brookings Institute⁴⁵ that States have a responsibility towards internally displaced citizens of States. This led to the creation of ICISS in the year 2000 which clearly stated in its 2001 Report that States have the primary responsibility to protect citizens and if they fail, the international community can intervene to protect the citizens.⁴⁶ According to Weiss and Kone, the R2P is a way to:

“reconcile the seemingly clashing principles of state sovereignty and non-intervention...with the need to halt the worst kinds of atrocities against humans and even to intervene militarily in the most egregious of cases.”⁴⁷

R2P “is closely linked to efforts within international justice system to end impunity of crimes”⁴⁸ of genocide, war crimes and crimes against humanity. In fact, the then Secretary-General of the United Nations, Kofi Annan, stated that: “no legal principle-not even sovereignty-should ever be allowed to shield genocide, crimes against humanity and mass human suffering.”⁴⁹

⁴⁰The 2000 Millennium Report: We the peoples’ the role of the United Nations in the 21st Century. By Kofi Annan the then Secretary https://www.un.org/en/events/pastevents/pdfs/We_The_Peoples.pdf

⁴¹ICISS (2001) Op cit. p. XI

⁴²A.J Bellamy., ‘The Responsibility to Protect and the Problem of Military Intervention’ *International Affairs (Royal Institute of International Affairs 1944)* vol. 84. no. 4., 2008, p. 615-639 [619]

⁴³G. Evans., *Responsibility to Protect: Ending Mass Atrocities Once for All* (The Brookings Institution Press, 2008) p. 13

⁴⁴F.M Deng & Others., *Sovereignty as Responsibility: Conflict Management in Africa* (The Brookings Institution, Washington D.C. P. XI, 1996)

⁴⁵The Brookings Institution was part of the attempt by Africa to Investigate Conflict Management in Africa. See J. Anderson., ‘Sovereignty as Responsibility: R2P and IDP Protection’ *Public Policy and Governance Review* vol. 4. Issue 2, 2013, p.56-71 at p. 60

⁴⁶ICISS (2001) Responsibility to Protect: Report of the International Commission on Intervention and State Sovereignty’ December 2001. Ottawa: International Development Research Centre. p. XI

⁴⁷Weiss and Kone., (2006) p. 24

⁴⁸ ‘R2P Responsibility to Protect Engaging Civil Society’ A Project of the World Federalism Movement-Institute for Global Policy, p. 50Online: <http://www.responsibilitytoprotect.org/files/R2Pcs%20Frequently%20Asked%20Question.pdf>

⁴⁹ The Secretary-General in Larger Freedom: Toward Development, Security and Human Rights for All. A Report of the Secretary-General 129 United Nations Doc. A/59/2005.21st March 2005

7.3.2 R2P The Rule

Despite R2P being regarded as an emerging norm, the international community-- even while respecting the territorial sovereignty of a State-- can intervene to protect citizens of a State where the State is either unwilling or incapable of protecting its citizens. This is based on the fact that R2P was endorsed by the United Nations General Assembly in 2006 and affirmed by the Security Council in its 2006 Resolution 1674.⁵⁰ It can be argued that, by so doing, the “Security Council has accepted the role”⁵¹ of acting on a case by case basis when States are failing to protect their citizens.

From the combined provisions of the ICISS Report and the Resolution adopted by the General Assembly on 16 September 2005⁵² from the World Summit in 2005, it can be argued that the Responsibility to Protect citizens has developed from mere intervention in the domestic matters of a State --without the consent of the State-- to an obligation to help prevent genocide, war crimes and breaches of Human Rights in States.⁵³

Bellamy summarised the provisions of the World Summit Resolution in paragraphs 138 and 139 in this way:

“The two paragraphs can be boiled down to four basic commitments. First, all States acknowledge that they have the responsibility to protect their citizens from genocide, war crimes, crimes against humanity and ethnic cleansing. Second, they agree to aid other States to build the capacity they need to discharge their responsibility. Third, in situations where the host State is ‘manifestly failing’ in its responsibility, they agree to use all peaceful means to protect vulnerable populations. Fourth, should those measures fail or be deemed inappropriate, the Security Council stands ready to use all necessary means, including non-consensual force.”⁵⁴

The United Nations Office on Genocide Prevention and Responsibility to Protect stated that “the adoption of paragraphs 138 and 139 by consensus at such a high political level adds

⁵⁰A.J Bellamy., (2008) Ibid.

⁵¹“R2P Responsibility to Protect Engaging Civil Society. Ibid. p. 5

⁵² Resolution Adopted by the General Assembly on 16 September 2005 A/RES/60/1. United Nations Website

⁵³ S.P Marks & N. Cooper., ‘The Responsibility to Protect: Watershed or Old Wine in New Bottle?’ *Jindal Global Law Review* vol. 2 Issue 1, 2010, p. 86-130 [96]

⁵⁴A.J Bellamy., (2008) Ibid. p. 623

impetus to the development of these obligations.”⁵⁵ It has also been argued that the R2P principle is not a new set of international norms binding on States but are norms already recognised by the international community. The World Federalist Movement noted that:

*“The framework draws on a pre-existing human rights standard, including the Universal Declaration of Human Rights, the four Geneva Conventions, the Rome Statute of the International Criminal Court, the Genocide Convention Against Torture, and the International Covenants”*⁵⁶

As a mere reconceptualization of existing international obligations, it is arguable that R2P is binding on States. Molier noted that R2P in theory is “old wine in new bottles.”⁵⁷ Marks and Cooper also stated that it is the “overarching failure of the pre-existing framework” that has led to the principle of R2P as approved by the world leaders in 2005.⁵⁸ Also, the United Nations Office on Genocide Prevention stated that R2P:

*“seeks to narrow the gap between Member States’ pre-existing obligations under international humanitarian and human rights law and the reality faced by populations at risk of genocide, war crimes, ethnic cleansing and crimes against humanity.”*⁵⁹

Even though still regarded as an emerging theory, being of universal application, R2P is intended to bind States to their existing international obligations. Commenting on the future of the R2P principle, Marks and Cooper stated that “...R2P could eventually crystalize into a customary norm of international law.”⁶⁰

7.3.3 R2P Application to Nigeria

From the above discussion, it can be safely concluded that, although, the United Nations General Resolutions and the Security Council 2006 Resolution of 1674 are not binding laws which have the power to override national constitutions, the R2P in Resolution 1674 and the

⁵⁵ ‘Responsibility to Protect’ United Nations Office on Genocide Prevention and the Responsibility to Protect Online: <http://www.un.org/en/genocideprevention/about-responsibility-to-protect.html>

⁵⁶ ‘World Federalist Movement, Institute for Global Policy, Responsibility to Protect Civil Society Project, Engaging Civil Society: Frequently Asked Questions’ 2009

⁵⁷ G. Molier., ‘Humanitarian Intervention and the Responsibility to Protect After 9/11’ *Netherlands International Law Review* vol. 53 no.1, 2006, p. 47

⁵⁸ S.P Marks & N. Cooper., ‘The Responsibility to Protect: Watershed or Old Wine in New Bottle?’ *Jindal Global Law Review* vol. 2 Issue 1., 2010, p. 86-130 [96]

⁵⁹ ‘Responsibility to Protect. United Nations Office on Genocide Prevention and the Responsibility to Protect’ Ibid fn. 48

⁶⁰ S.P Marks & N. Cooper., (2010) p. 130

report of the World Submit 2005 on the R2P, is so persuasive as binding rather than soft law that States would be unwise to ignore it. In obvious realization of this, intervention to protect has usually been undertaken in larger political conflicts such as United States intervention in Grenada in 1983⁶¹ and Liberia in 1990.⁶² In the case of Nigeria, the Nigerian State, having ratified some of the existing international law treaties, is bound to carry out its international obligations towards its own citizens in fulfilment of their obligations. Applicable treaty law ratified by Nigeria which places the Nigerian State under international obligation to protect citizens from war crimes and mass suffering include: the Geneva Convention Relating to the Protection of Civilian Persons in Times of War ratified 1988; the International Convention on the Elimination of All Forms of Racial Discrimination, 1969; the International Covenant on Civil and Political Rights 1993; the International Covenant on Economic, Social, and Cultural Rights 1993; the Rome Statute of the International Criminal Court 2001; and the the African Charter on Human and Peoples Rights 1983.⁶³ These laws put Nigeria under obligation to protect the Ife and the Modakeke from further loss of life and property from their conflict.

On the regional level, Article 4(h) of the Constitutive Act of the African Union requires States to protect citizens from War crimes and genocide. Articles 20 of the African Charter of Human and Peoples' Rights also addresses the rights of citizens to life and peaceful existence by granting self-determination to groups such as Modakeke and Ife within the remit of the State. Failure of the Nigerian State to protect its citizens would, therefore, leave Nigeria open to intervention in its internal affairs by the African Union, or even, by the international community.

The second aspect of international law as it applies to the Ife-Modakeke case is that of internal self-determination and Human Rights law in Nigeria. This is now discussed.

7.4 Group Autonomy and Internal Self-determination

The discussion under this sub-heading argues the position of the international community and the African Union on group autonomy and internal self-determination as the means of persuading the Nigerian State to grant the Modakeke internal self-determination from the Ife.

⁶¹K. Hippel., *Democracy by Force United States Military Intervention in the Post-Cold World War* (Cambridge University Press, 2004)

⁶²J. Mayall., *Humanitarian Intervention and International Society: Lessons for Africa in Humanitarian Intervention and International Relations* (Jennifer Welsh (Ed)131, 2004)

⁶³ 'Centre for Treaties of the Federal Republic of Nigeria' Online: <http://lawnigeria.com/FEDERATION-MULTILATERAL-TREATIES-GLOBAL.html>

The importance of autonomy was emphasised by Ingram when he wrote that: "...a government which fails to support autonomy fails to provide its citizens with the opportunity for meaningful life."⁶⁴

Self-determination is an expression of autonomy.⁶⁵ Autonomy is the larger notion of freedom within reason, self-determination. However, as described in Article 3 of the United Nations Declaration on the Rights of Indigenous Peoples adopted by the General Assembly in 2007,⁶⁶ self-determination is the right of a people to freely determine their political status and freely pursue their economic, social and cultural development. The description of what self-determination entails in the 2007 resolution is in line with earlier scholarly definition of self-determination. According to Philpott, self-determination is a "legal arrangement" which gives any group of individuals within a defined territory "independent statehood or greater autonomy within a Federal state."⁶⁷ Philpott's definition of self-determination demonstrates the two basic features of self-determination namely: right to secession and right to representative government. Musgrave addressed the two types of self-determination apparent in the world scene as developed in earlier times.⁶⁸ Musgrave identified the occurrence of self-determination based on ethnic and linguistic boundaries as practised in central and eastern Europe as well as in the United States.⁶⁹ In this type of self-determination, he explains, States are created based on geographical boundaries and bear the threat of secession. According to Musgrave, self-determination gives emphasis to the groups not to individuals,⁷⁰ creating a nationalistic atmosphere. The only sure outcome for the expression of this form of self-determination is secession and more quests for self-determination by minorities due to intermingling of the different peoples. When States are created based on boundaries, it is inevitable to find minorities of other ethnic origin already settled among the majority. Also, as the minority of a State develop national consciousness, ethnic conflict tends to re-emerge. There is little evidence that early efforts to solve the problem of nationalism through assimilation of the minorities within the State did not work anywhere in the world. McCartney noted that Russia and Germany attempted to assimilate the Poles in the 1800's by placing a

⁶⁴A. Ingram., *A Political Theory of Rights* (Oxford University Press, 1994) p. 113.

⁶⁵ Autonomy is characterised by self-government. See Internet Encyclopaedia of Philosophy. A Peer Review. Academic Resources. Online: <http://www.iep.utm.edu/aut-norm.html>

⁶⁶ The United Nations Declaration on the Rights of Indigenous Peoples adopted by the General Assembly in 2007. United Nations Resolution A/61/295

⁶⁷D. Philpott., 'In Defence of Self-Determination' *Ethics* (The University of Chicago Press) vol. 105. no.2., 1995, p 352-385[353]

⁶⁸T.D Musgrave., *Self-Determination and National Minorities* (Oxford University Press, 1997) p. 13

⁶⁹ T.D Musgrave., (1997) *Ibid.* p. 13

⁷⁰T.D Musgrave., (1997) *Op cit.* p. 13

ban on the use of the Polish language in Russia and Germany.⁷¹ However, it obviously did not stop the minority cry of the Polish people. Neither does today's attempts at assimilation work to end group quest for greater autonomy in the States. Therefore, merely trying to assimilate the minority group into the majority groups does not solve the issue of minority self-determination as is the case of the Modakeke who want to be treated as separate from the Ife.

The second expression of self-determination is that which gives more autonomy to the people but does not involve secession. Seigel's book on self-determination in Western Europe holds the idea that self-determination was not based on ethnic, linguistic or geographical boundaries in traditional Western Europe but was based on representative government.⁷² This expression of self-determination is what the Modakeke are seeking from the Nigerian State and not secession but greater autonomy by means of a Local Government Area. The basic features of both expressions of self-determination are discussed below to provide an informed basis of deciding the true nature of self-determination demanded by the Modakeke.

7.4.1 Expressions of Self-determination: External and Internal Freedoms

The right to self-determination can be expressed both externally and internally. Self-determination is often expressed externally as the freedom of States to carry out their affairs without interference from other States.⁷³ External self-determination is based on respect for the territorial integrity of States as expressed in Article 2 (4) of the Charter of the United Nations.

Articles 1(2) and 55 of the United Nations Charter also makes specific reference to the promotion of self-determination of peoples but no explicit nature of the rights was provided. These provisions allude to the external nature of self-determination between States. Also, the World Summit Outcome adopted by the United Nations General Assembly on the 24th of October 2005 states: "We rededicate ourselves to support all efforts to uphold the sovereign

⁷¹C.A McCartney., *National States and National Minorities* (Oxford University Press, 1934) p. 128

⁷² I.J Seigel., *The Idea of the Self. Thought and Experience in Western Europe Since the Seventeenth Century* (Cambridge University Press, 2005)

⁷³E. Daer., 'Native Peoples Right' *Les Cahiers De Droit*. vol. 27. p. 126 in K. Henrard & S. Smis., *The Right to Self-Determination Accommodation of International Diversity some Theoretical Remarks and the Analysis of the Situation in South Africa and Ethiopia* (Law and Cultural Diversity Ed by Donders, Y., and Others, 1998) Proceedings of a Workshop, Organised by the Working Group 'Law and Cultural Diversity' in Co-Operation with the School of Human Rights Research, The Netherlands. 25 September 1998. p. 128

equality of all States...”⁷⁴ The problem with the outcome of the World Summit is that it does not deal with internal self-determination where a group within a sovereign State is claiming discrimination allowed by the government.⁷⁵

Granted, the recognition of the territorial integrity of States has been a priority for first world countries, but this has filtered into all States of the world, thus creating avenues for expressions of self-determination internally by a State. According to Franck, the principle is now one of inclusion not exclusion.⁷⁶ The principle of self-determination now has broader application including the rights of peoples and States to determine their political, economic, social and cultural life and not just the initial State-centred rights.⁷⁷ It follows that if the Modakeke are ‘peoples’, they can express their self-determination within the Nigerian State.

In defining peoples, Article 1 of the ICCPR⁷⁸ states that “All peoples have the right of self-determination”⁷⁹ and Article 27 states the following:

“In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language.”

Whether Articles 1 and 27 are referring to the same class of peoples who have the right to self-determination has been debated by academics. For example, McGoldrick has argued that the definition of peoples in Article 1 is different from the minorities in Article 27.⁸⁰ In explaining how the modern State can accommodate the diverse groups common in most

⁷⁴The World Summit Outcome Adopted by the United Nations General Assembly on the 24th October, 2005. Reported in UN General Assembly Resolution. A/Res/60/1, Sec.1parag5

⁷⁵For example, as stated by a Modakeke participant interviewed in July, 2014, while neighbouring sub-groups such as Ipetumudu had progressed from few numbers of wards in 14 years to up to 10 wards, the complaint of the Modakeke is that they are discriminated against by being left with only three wards for 14 years See Interview MMA20 And MMA8 In Appendix 5

⁷⁶T.M Franck., ‘The Emerging Rights to Democratic Governance’ *American Journal of International Law* vol. 86. p. 59

⁷⁷Declaration to the Granting of Independence to Colonial Countries and Peoples, Gen Ass Resolution 1514(Xv) Online: <http://www.un.org/en/decolonization/declaration.shtml>

⁷⁸ Nigeria ratified the International Covenant on Civil and Political Rights on 29 July, 1993. See United Nations Treaty Collection. https://treaties.un.org/pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-4&chapter=4&lang=en

⁷⁹ The International Covenant on Civil and Political Rights, Adopted by the General Assembly of the United Nations 19 December, 1966. Online at United Nations Treaty Collection <https://treaties.un.org/doc/publication/unts/volume%20999/volume-999-i-14668-english.pdf> on 29 July, 1993. See United Nations Treaty Collection.

⁸⁰D. Mc Goldrick., *The Human Rights Committee: Its Role in the Development of ICCPR* (Clarendon Press, 1991) p. 15

nations, Henrard and Smis, argue that ‘peoples’ in Article 1 includes possible minorities.⁸¹ Michael Walzer has noted that, in most cases, the ‘self’ in self-determination includes many selves because of the overlapping history of most people.⁸² A stereotype criterion for determining who is qualified for self-determination is misleading. Buchanan has insisted that a territorial claim needs to be established for self-determination. He insisted that a group seeking self-determination must be able to show that they are under threat of genocide.⁸³ In support of this is Brilmayer who argued that proving territory and historical grievance is a prerequisite for a claim of self-determination.⁸⁴ According to Philpott, size of a people should not be used to determine who has right to self-rule.⁸⁵ Neither can inability to claim land or territory be a criterion for determining who has the right to self-determination.⁸⁶ thus making the issue of land a crucial factor to self-determination. As further argued by Philpott:

*“legalized self-determination could quite conceivably contribute to order and stability, not anarchy. Only when current rivalries and ancient hatreds are accommodated within a just legal framework...are they likely to become tame.”*⁸⁷

From the above argument, the right to self-determination should be seen as a legal right expressed within reason of the circumstances surrounding it. Agreeably, self-determination has shifted from the mere political to the legal.⁸⁸ Today, the international community recognises both the external self-determination which is freedom from colonialization and foreign occupation, as well as internal self-determination practiced by democratic nations. However, the principle of self-determination still remains largely external with the protection of State integrity as priority. While this may seem to be the case at the moment, the changing nature of self-determination and international law as a whole does not guarantee that it will remain the same for a long time. As a result, the ability to resort to international law on self-determination by peoples such as the Modakeke is promising with the development of internal self-determination. As suggested by Klabbers, self-determination should be interpreted as a

⁸¹K. Henrard & S. Smis., *The Right to Self-Determination Accommodation of International Diversity some Theoretical Remarks and the Analysis of the Situation in South Africa and Ethiopia* (Law and Cultural Diversity Ed by Donders, Y., and Others, 1998) p. 133

⁸²M. Walzer., *Spheres of Justice a Defence of Pluralism and Equality* (Basic Books, 1983) p. 171

⁸³A. Buchanan., ‘Secession: The Morality of Political Divorce From fort Sumter to Lithuania and Quebec Boulder: West View’ (Condensed Version See Toward a Theory of Secession) *Ethics*, vol. 101, 1991, p. 322-342.

⁸⁴L. Brilmayer., ‘Secession and Self-Determination: A Territorial Interpretation’ *Yale Journal of International Law* vol. 19., 1991, p. 177-202 [189]

⁸⁵D. Philpott., ‘In Defence of Self-Determination’ *Ethics* (The University of Chicago Press) vol. 105. no.2., 1995, p 352-385. p.366

⁸⁶D. Philpott., (1995) *Ibid*. p. 369

⁸⁷Philpott, D., (1995) *In Defence of Self-Determination*. *Ethics*. Vol. 105. No.2. P 352-385. The University of Chicago Press. p.385

⁸⁸Article 1 of the International Human Rights Covenants made the Right to Self-Determination a Legal Right.

peoples' right internally to be taken seriously in its internal affairs,⁸⁹ thus extending the right to democratic practices of States. In implementing self-determination therefore, internal self-determination does not involve entitling the people to their own independent State. Therefore, the researcher argues that international law does not provide a clear-cut direction for all States when it comes to self-determination but recognises the violations of human rights committed against ethnic minorities as a basis for intervention in crisis situations. However, as earlier noted in this section, the ICCPR and the outcome of the 2005 World Summit have provided a more advanced approach within international law, creating obligations for States to help other States who fail to prevent or stop violations of human rights. Thus, since the struggle for internal self-determination of the Modakeke has led to human rights breaches according to the findings in section 7.4., the international community may decide to act to assist Nigeria carry out its responsibilities to the citizens of the Ife and the Modakeke.

At the regional level, self-determination is supported and promoted. Article 20(1)(2) of the African Charter on Human and Peoples' Rights⁹⁰ provides for the broad interpretation of the right to self-determination. Article 20(1):

“All peoples shall have the right to existence. They shall have the unquestionable and inalienable right to self-determination. They shall freely determine their political status and shall pursue their economic and social development according to the policy they have freely chosen.”

From the above provisions, the broad tenet of self-determination is promoted in the actual use of the words “right to self-determination” the same way as is present in the United Nations Declaration on the Rights of Indigenous Peoples 2007.⁹¹ Thus, self-determination does not only apply to external freedom but also to internal freedoms within a State. In addition, Article 20(2) of the African Charter states that:

“Colonized or oppressed peoples shall have the right to free themselves from the bonds of domination by resorting to any means recognized by the international community.”

⁸⁹J. Klabbers., ‘The Right to be Taken Seriously: Self-Determination in International Law’ 28 *Human Rights Quarterly*, 2006 p. 186-206

⁹⁰African Charter on Human and Peoples Rights, 1986. Online: <https://www.africa-court.org/en/index.php/documents/legal-instruments/basic-documents>

⁹¹United Nations Declaration on the Rights of Indigenous Peoples 2007. Online: http://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf

The above provisions make clear the exercise of both external and internal self-determination for either colonized or oppressed peoples. Therefore, under sub-section 2, small groups such as the Modakeke that claim oppression by the Ife can be deemed to have the right to self-determination under regional laws. However, since the government treats the Modakeke as the same as the Ife, their status as a ‘people’ giving them the right of internal self-determination under Articles 20(1) is debatable.

Articles 47 of the African Charter on Human and Peoples Rights allows for communication by States alleging violations of the provisions of the African Charter including those of self-determination. It provides that:

*“If a State party to the present Charter has good reason to believe that another State party to this Charter has violated the provisions of the Charter, it may draw, by written communication, the attention of the State to the matter. This communication shall also be addressed to the Secretary General of the OAU and to the Chairman of the Commission.”*⁹²

Article 47 uses the word “may”, suggesting that one State is not under obligation to protect the right of self-determination of a group in another State as it is based on a States’ discretion. However, by virtue of Article 55 of the African Charter, communications by individuals are allowed, thus showing that the Charter recognises that self-determination is not only between States but also includes internal self-determination by groups (peoples). Apart from the provisions of the African Charter, the judicial pronouncements of the African Commission⁹³ demonstrate the same attitude of both external and internal self-determination for peoples. For example, the African Commission upheld the right to self-determination in *Katangese People’s Congress v Zaire*⁹⁴ stating that:

“In the absence of concrete evidence of violations of human rights to the point that the territorial integrity of Zaire should be called to question and in the absence of evidence that the people of Katanga are denied the right to participate in Government

⁹²African Charter on Human and Peoples Rights. 1986. Online: <https://www.africa-court.org/en/index.php/documents/legal-instruments/basic-documents>. The OAU have been changed to the AU

⁹³ The African Commission on Human and Peoples Rights inaugurated November 2, 1987 is a quasi-judicial body tasked with promoting and protecting human rights and collective peoples’ rights in the African Continent and the interpretation of the African Charter on Human and Peoples Rights. See About ACHPR Online: <http://www.achpr.org/about/>

⁹⁴ (1994-1995). Case No 75/92, 8th Annual Activity Report (ACHR/RP/8th

as guaranteed by Articles 13(1) of the African Charter, the Commission holds the view that Katanga is obliged to exercise a variant of self-determination that is compatible with the sovereignty and territorial integrity of Zaire.”⁹⁵

From the above provisions, it is evident that the African Commission has promoted external self-determination but recognizes internal self-determination based on breaches of human rights to individuals and groups. It clearly shows that if the Modakeke as individuals and a group can prove with concrete evidence violations of human rights, then their right to self-determination might be upheld by the African Union. However, the Commission encouraged the use of variants of self-determination. It was the same position taken by the courts in *Kevin Mgwanga Gunme v Cameroon*⁹⁶ where the court held that self-determination can be realised through structures such as Federalism, con-Federalism and self-government. Earlier, the Commission held in *Burkina Faso v Republic of Mali*⁹⁷ that the right to self-determination does not include the right of secession from an independent State as the right to colonial boundaries are fixed by African leaders. In *Gunme & Ors v Nigeria*⁹⁸ where twelve Cameroonians alleged that their right of self-determination had been breached by Cameroon but required Nigeria as party to the African Charter to present a case before ICJ on their behalf, the ICJ held that a foreign State had no obligation to enforce the right of self-determination under the African Charter. The twelve Cameroonians would have had a better chance under the African Commission rather than in ICJ.⁹⁹ Therefore, for small groups such as the Modakeke, greater chance of achieving internal self-determination lies with the cooperation of the Nigerian State.

What can be gleaned from the Case law? While the right of self-determination has been restricted by case law to external self-determination, the recent case of Katangese peoples shows that someday the Commission may recognise the right of groups to internal self-determination rather than just encouraging democratic measures of realising self-determination. The African Union, in applying the African Charter and the case of Katangese, is in a position to put pressure on the Nigerian government to take all necessary steps to end

⁹⁵*Katangese People's Congress v Zaire* (1994-1995) Ibid.

⁹⁶ (2009) Communication No.266/2003. African Commission on Human and Peoples' Rights Forty-Fifth Ordinary Session 13-27 May 2009. Online:

http://www.worldcourts.com/achpr/eng/decisions/2009.05.27_Mgwanga_Gunme_V_Cameroon.htm

⁹⁷ (1986) ICJ Reports, p. 554-567. Online: <http://www.icj.cij.org/Docket/Index.Php?Sum=359&P1=3&P2=3&Case=69&P3=5>

⁹⁸ (2002) Suit No. FHC/ABJ/CS/30/2002

⁹⁹‘Case Note: Foreign State Assistance in Enforcing the Right to Self-Determination under the African Charter’ *Journal of African Law* (School of Oriental and African Studies) vol. 46. no. 2. p. 246-258 [257]

the Ife-Modakeke conflict by granting Modakeke self-government based on discrimination by the Ife as a group and for individual breaches of their human rights to peaceful existence, life and properties. It is a matter for the State to prevent others (the Ife) from breaching the human rights of the targeted people (the Modakeke).

7.4.2 Benefits to the Nigerian State of Granting Internal Self-determination to the Modakeke in Ife

The researcher argues that the cost of the Ife-Modakeke conflict to the Ife and Modakeke people, as well as to the Nigerian State, will be enormous if further violent conflict is not prevented. Ending the conflict will ensure that there is no financial, emotional and moral condemnation from the international and regional community on the Nigerian State.

In general, people may interpret the impact of any violent conflict in different ways because of their level of involvement or their proximity to the center of the violence. For example, while the elders and chiefs of Ile-Ife submitted a memorandum to the Military Administrator of Osun state in September, 1998 stating the loss of cultural materials worth millions of naira,¹⁰⁰ the University of Ile-Ife reported the displacement of 5,000 students and 1,000 staff members as well as disruption of lectures and the academic calendar as a result of the forceful closure of the campus for several weeks during the various violent conflicts between 1997 and 2000.¹⁰¹ The Government, on the other hand, reported a cost of 31.8 million naira for treating hundreds of victims of the crisis in just one hospital, namely, Obafemi Awolowo University Teaching Hospital.¹⁰² Despite their different dimensions, it could be argued that humans share a level of emotional response to certain levels of violence. For example, genocide cases have incurred the distress and annoyance of the world in general. Also, certain crimes, such as murder or other conduct that shows a high level of violence to another human, are considered capital crimes in most human communities.

Akanji noted that although there were no official statistics on the losses that the violent conflict of the Ife-Modakeke inflicted on the people, there are unofficial records of over 600 deaths and loss of property worth several million naira.¹⁰³ There is no subject that has affected

¹⁰⁰Memorandum submitted by Chiefs, Community, Elders and People of Ile-Ife to the Military Administrator Osun State, September 1998 p.13 in O.O Akanji., 'Group Rights and Conflicts in Africa: A Critical Reflection on Ife-Modakeke, Nigeria' *International Journal on Minority and Group Rights* vol.16. no.1, 2009, 1. p.31-51[42]

¹⁰¹Nigerian Tribune, Ibadan, 2 June, 2000.

¹⁰²The Guardian Nigeria Newspaper, 8 November, 1999, p.1

¹⁰³O.O Akanji., (2009) Ibid. p. 46

humans in general so much as the loss of a loved one. Both communities have lost loved ones in the violent conflict. This loss is immeasurable.

In addition, Nigeria's image in the international community can be affected negatively by the continuation of the conflict. According to a CNN News report "Nigeria tops the list of African countries with the newest displacements in 2015 when 737,000 were uprooted." Although, 90% is the result of Boko Haram terrorist activities,¹⁰⁴ Nigeria does not want to add to the displaced ones by not resolving the Ife-Modakeke conflict. Also, as discussed under earlier sub-headings in this chapter, the Nigerian State risks the intervention of the international community, especially the African Union, to stop any violence between the groups that might lead to genocide. This illustrates the point of using the right resolution methods to end the conflict. Nothing could be more expedient as finding a permanent solution to ethnic conflict resolution in Nigeria. A possible solution, where all parties are agreeable and supportive, is one that will not undermine the sovereignty of the Nigerian State but will take into consideration the agitation of each of the groups in conflict. The chapter thus recommends that in order to protect her international image and to be seen to be carrying out her obligations towards citizens and the protection of Human Rights in Africa, the Nigerian State should take steps to separate the Ife-Modakeke to end their conflict. As will be demonstrated in the discussion below, in order for Nigeria to end the Ife-Modakeke conflict, much work needs to be carried out by Nigeria in strengthening the furtherance of its international obligations towards groups.

7.5 International Law on Human Rights: its Application in Nigeria

The argument in this section is that the present Nigerian legal framework is not adequate for the protection of the human rights of either individuals or groups in accordance with Nigeria's international law obligation, whether as a member of the international community, or of the United Nations, or as signatory of human rights and other treaties. As a result, the international community can persuade Nigeria to carry out its international obligations to respect and implement the international human rights of the Ife and the Modakeke. This argument is based on an examination of Nigeria's application of international legal provisions which are binding on Nigeria.

¹⁰⁴Africa's silent refugee crisis; 12.4 million on the run in their own countries. Sophie Morlin-Yron CNN Jan 11, 2017. <https://edition.cnn.com/2017/01/11/africa/africa-silent-refugee-crisis/index.html>

The effort toward universal application of human rights led to the Universal Declaration of Human Rights adopted in 1948 which is considered the foundation of international human rights law. The Universal Declaration on human rights has been translated into different “treaties, customary international law, general principles, regional agreements and domestic laws.”¹⁰⁵ For example the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights repeat most of the rights stated in the Universal Declaration of Human Rights making the treaties “effectively binding on states that have ratified them.”¹⁰⁶

An apt description of how international law protects human rights was given by the United Nations Website that:

“International human rights law lays down obligations which States are bound to respect. By becoming parties to international treaties, States assume obligations and duties under international law to respect, to protect and to fulfil human rights. The obligation to respect means that States must refrain from interfering with or curtailing the enjoyment of human rights. The obligation to protect requires States to protect individuals and groups against human rights abuses. The obligation to fulfil means that States must take positive action to facilitate the enjoyment of basic human rights.

Through ratification of international human rights treaties, Governments undertake to put into place domestic measures and legislation compatible with their treaty obligations and duties. The domestic legal system, therefore, provides the principal legal protection of human rights guaranteed under international law. Where domestic legal proceedings fail to address human rights abuses, mechanisms and procedures for individual and group complaints are available at the regional and international levels to help ensure that international human rights standards are indeed respected, implemented, and enforced at the local level.”

¹⁰⁵ Foundations of International Human Rights Law. Online: <http://www.un.org/en/sections/universal-declaration/foundation-international-human-rights-law/index.html>

¹⁰⁶ Foundations of International Human Rights Law. Ibid

From the above statements, it is obvious that the ability to be bound under international law as described above lies mainly in Nigeria's position on treaty laws and their application in Nigeria. The adequacy of treaty laws in Nigeria leaves much to be desired in terms of enforcement of treaties in Nigeria, including those that deal with human rights violations.

The Nigerian Treaties (Making Procedure, etc) Decree No. 16¹⁰⁷ deals with Treaty making by Nigeria and it shows that a Treaty must be ratified to be enforceable in Nigeria. This is the position stated in the Nigerian Constitution 1999 by virtue of Section 12(1) which clearly states that:

*"No treaty between the Federation and any other Country shall have the force of law to the extent to which any such treaty has been enacted into law by the National Assembly."*¹⁰⁸

In effect, Treaty law does not form part of the primary sources of Nigerian law, unless a Treaty is transformed into a Nigerian law, and made enforceable in Nigeria. The Supreme Court of Nigeria applied section 12 of the 1999 Constitution in determining the case of *The Registered Trustees of National Association of Community Health Practitioners of Nigeria & Orders v Medical and Health Workers Union of Nigeria*.¹⁰⁹ The Court held that the International Labour Organization Convention had not passed through the process of transformation into Nigeria's domestic law and therefore had no binding force in Nigeria. Conversely, in *Abacha v Fawehinmi*¹¹⁰ the Supreme Court of Nigeria held that:

"...the African Charter which is incorporated into our municipal law becomes binding and our courts must give effect to it like all other laws falling within the judicial power of the courts."

From the above statements, Nigeria's position toward Treaty making and implementation can be summarised as respect for international law in relation to Treaties by virtue of its ratifying the Vienna Convention and its constitutional provisions on Treaty making and implementation. However, Nigeria errs on the side of caution in this regard. Where Nigeria does not assent to an international Treaty, it does not bind the country regardless of the

¹⁰⁷The Nigerian Treaties (Making Procedure, ETC) Decree No. 16,¹⁰⁷ 1993 Act. Cap. T 20, Laws of the Federation of Nigeria (LFN) 2004

¹⁰⁸Constitution of the Federal Republic of Nigeria, 1999 Cap. C.23 Laws of the Federation of Nigeria 2004

¹⁰⁹ (2008) 2 Nigeria Weekly Law Report. (NWLR) Part 1075, P. 575

¹¹⁰ (2000) 6 NWLR Pt 600. P. 288

benefits of the Treaty to the protection of human rights in the country. For example, in November, 2006, the African countries in a Draft Aide Memoire raised their concerns relating to the provisions of the United Nations Declaration on the Rights of Indigenous Peoples.¹¹¹ Among the various concerns raised was the absence of a definition for indigenous peoples in the Declaration and Promotion of Self-determination within nation States by virtue of Articles 3 and 4. These Articles go against constitutional provisions of many African States because they relate to land ownership and control. The insufficient clarification of these areas of conflict, Nigeria claims, was the reason for abstaining from voting for the adoption of the United Nations Declaration on the Rights of Indigenous Peoples in 2007.¹¹² The United Nations Declaration on the Rights of Indigenous Peoples in 2007 on becoming part of customary international law by the conduct of States in general adopting the provisions as binding on them otherwise as signatories of the treaty, might be binding on Nigeria even though it voted against the Declaration.

The question, therefore, is whether the international community and the African Union can assert pressure on Nigeria to end the Ife-Modakeke conflict and prevent further breaches of their human rights as individuals and groups?

The answer is Yes. Since Nigeria has ratified some of the treaties promoting human rights such as International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights ratified July 29, 1993,¹¹³ Nigeria is bound to carry out its obligations to respect, protect and fulfil the human rights of its citizens and if found that Nigeria has failed, or Nigeria is failing to carry out its international obligation, the members of the international community can hold Nigeria accountable for these breaches of human rights. This question is whether they will.

It is noteworthy that two of the studies¹¹⁴ that have analysed the Ife-Modakeke conflict show that the Nigerian State has failed in its responsibility to protect its citizens from human right

¹¹¹Draft Aide Memoire African Group: United Nations Declaration on the Rights of Indigenous People. 9 November, 2006. Online: <http://www.ipacc.org.za/uploads/doc/africanaidememoire.pdf>.

¹¹²General Assembly Adopts Declaration on Rights of Indigenous Peoples. General Assembly Sixty-First General Assembly Plenary 107th & 108th Meetings. GA/10612. 13th September, 2007. Online: <http://www.un.org/news/press/docs/2007/GA10612.Doc.htm>

¹¹³ Nigeria Treaty Ratification Status available at United Nations Human Rights Office of the High Commissioner. Online: https://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Treaty.aspx?CountryID=127&Lang=EN

¹¹⁴ The two studies considered here are the Report on the impunity and State-sponsored violence in Nigeria, and Akanji's work on group rights. N. Ogbara., *Hope Betrayed? A Report on Impunity and State Sponsored Violence in Nigeria 2002* (World Organization Against

violations and war crimes. The Report on the immunity and State sponsored violence in Nigeria was commissioned by the World Organization Against Torture (OMIT) Switzerland and the Centre for Law Enforcement Education (CLEEN) Lagos Nigeria to investigate the human right issues of the Ife-Modakeke conflict following the violent conflicts of the Ife-Modakeke in the modern State of Nigeria from 1981 to the year 2000.

The Report noted several failures of the Nigerian government to protect the human rights of citizens in the Ife-Modakeke conflict and thus the government can be pressured by the international community to carry out its obligations under international law, the violations of citizens' rights in the conflict according to the 2002 report included:

1. Violations of the right to life of citizens of both the Ife and the Modakeke as well as violations of citizens civil and political rights with recorded deaths of over 2,000 people in two decades as a result of the conflict
2. Internal displacement and violations of economic, social and cultural rights with over 10,000 refugees in a temporary refugee camp at the Obafemi Awolowo University in 1997
3. Violations against children.¹¹⁵

The report also noted that the reports of the investigative committees set up by different government administrations in Nigeria were ignored and the government were reluctant to start any disciplinary measures against human right violators.¹¹⁶

The recommendation of the 2002 report was:

“To the United Nations: To request the United Nation’s Special Rapporteurs in Summary, Arbitration and Extra-Judicial Executions, Torture, Violence Against Women and Independence of Judges and lawyers to undertake a joint investigation of violence, extra-judicial executions and related violations in Nigeria and to request the

Torture (OMIT) Switzerland & Centre for Law Enforcement Education (CLEEN), 2002); O.O Akanji., ‘Group Rights and Conflicts in Africa: A Critical Reflection on Ife-Modakeke, Nigeria’ *International Journal on Minority and Group Rights* vol. 16, 2009, p. 31-51 respectively

¹¹⁵N. Ogbara., (2002) Ibid. p. 44-45

¹¹⁶ N. Ogbara., (2002) Op cit. p. 47

government of the Federal Republic of Nigeria to accede to the conduct of such an investigation.

To the African Commission on Human and Peoples Rights: To consider in its next meeting and, in any case, at its earliest opportunity, the allegations of serious, massive and systematic violations of the Harare Principles as supplemented by the Millbrook Declaration, against the Federal Republic of Nigeria”¹¹⁷

The recommendations above required the international community to take the first step to act, by investigating these failures on the part of the Nigerian State. However, so far nothing appears to have been done with regards to the report.

Akanji also noted several failures on the part of the government of Nigeria both at Federal and state levels in preventing human right violations during the Ife-Modakeke violent clashes. A few of the failures he identified are:

1. The government used curfew to end the violence in 1981, 1983 and 1997-2000 caused by the Ife-Modakeke conflict and this resulted in the loss of livelihood (trading) in both communities;
2. The shutting down of primary, post-primary and higher education in the 1997-2000 conflict resulted in displacement of 5,000 students;
3. The Ife-Modakeke conflict assumed the posture of genocide in 1849, 1881, 1886, and 1997-2000.¹¹⁸

As a result of these failures, Akanji stated that:

“...the Nigerian state is to be held responsible for encouraging and sustaining the communal conflict, through the non-provision of appropriate mechanisms to accommodate the rights of both groups.”¹¹⁹

What can be concluded about the level of success of Nigeria in protecting the Ife-Modakeke from human rights abuses in times of conflict and non-violent conflict? The argument in this

¹¹⁷N. Ogbara., *Hope Betrayed? A Report on Impunity and State Sponsored Violence in Nigeria 2002* (World Organization Against Torture (OMIT) Switzerland & Centre for Law Enforcement Education (CLEEN), 2002) p. 191

¹¹⁸All three points are from O.O Akanji., (2009) Op cit. p. 42-48

¹¹⁹O.O Akanji., ‘Group Rights and Conflicts in Africa: A Critical Reflection on Ife-Modakeke, Nigeria’ *International Journal on Minority and Group Rights* vol. 16, 2009, p. 31-51 [51] 1

Thesis is that by the absence of appropriate actions of the Nigerian State in times of violence between the Ife and the Modakeke as outlined above, the Nigerian State did not protect the lives and properties of the Ife and the Modakeke as citizens of Nigeria either as individuals or groups as prescribed in chapter IV of the Nigerian constitution and the international treaties Nigeria subscribes to. This Researcher has concluded that the Nigerian State has not effectively protected the Ife-Modakeke citizens from violations of their human rights; and therefore, the State ought to take prompt steps to end the Ife-Modakeke conflict, and to prevent further breaches of the rights of its citizens as a result of violence between the two groups. This can be enforced by both the general international community and the regional community of the African Union. The solution which the government should take in order to avert intervention by external entities is the separation of the Modakeke from the Ife by the creation of a separate, permanent Local Government for the Modakeke, or else risk regional intervention through the bodies described below: The Peace and Security Council (PSC) is the standing Organ of the African Union and the Economic Community of West African States (ECOWAS)

7.6 Pressure by the Peace and Security Council (PSC) and the Economic Community of West African States (ECOWAS).

The Peace and Security Council (PSC) is the standing Organ of the African Union for the prevention, management and resolution of conflicts. The PSC was setup as an early warning arrangement to facilitate timely and effective responses to conflicts and crisis situations. The PSC derives its authority from Article 20 of the Constitutive Act of the African Union (as inserted by Article 9 of the Protocol on Amendment to the Constitutive Act 2003), together with Article 2 of the 2002 Protocol relating to the establishment of the Peace and Security Council of the African Union.

Section 7 of the 2002 Protocol gave the PSC the following powers (among others):

- 1) Anticipate and prevent disputes and conflicts, as well as policies, which may lead to genocide and crime against humanity
- 2) Recommend intervention in a Member State in respect to grave circumstances, namely war crimes, genocide and crimes against humanity.
- 3) Institute sanctions

- 4) Follow up promotion of democratic practices, good governance, the rule of law, protection of human rights and fundamental freedoms, respect for the sanctity of human life and international humanitarian law.¹²⁰

In response to its mandate above, the PSC has given sanctions to defaulting Countries¹²¹ which one can rightly classify Nigeria by virtue of the continued tension between groups in Nigeria such as the Ife-Modakeke and the Hausa-Fulani herdsmen. Therefore, Williams has rightly noted that:

*“By articulating the AU’s voice on issues related to Peace and Security, and through the strategic use of official statements and instruments such as mediation, sanctions and peace operations, the PSC attempts to persuade and/or influence its intended audiences, especially parties involved in conflict or crisis situations.”*¹²²

Also, the African Union, through ECOWAS missions such as the overthrow of the Gambian government in 2017, has put pressure on the Gambia to prevent unconstitutional change of government and possible internal conflict.¹²³ From the above provisions, the African Union through the PSC organ can put pressure on Nigeria to resolve conflicts that have potential for genocide or human rights abuses in Nigeria.

Considering Nigeria’s position on foreign laws applicable in the country, it can be argued that for a change to the Constitution to allow more Treaty laws such as the United Nations Declaration on the Rights of Indigenous Peoples in 2007 to be applicable to peoples in Nigeria such as the Modakeke, the government has to be rightly persuaded to see the benefits of transforming it into a Nigerian law to help easier enforcement of the rights of self-determination to peoples such as the Modakeke. Such persuasion might be in form of pressure for failing to protect citizens in times of violent conflict. It will be a necessary pressure in relation to the Ife-Modakeke conflicts as the discussion above demonstrates that Nigeria has failed in its responsibility to protect the Ife-Modakeke in times of conflict.

¹²⁰Protocol relating to the establishment of the peace and security council of the African Union. Available at <http://www.peaceau.org/uploads/pse-protocol-en.pdf>

¹²¹P. Williams., ‘The Peace and Security Council of the African Union: Evaluating an Embryonic International Institution’ *Journal of modern African Studies* (Cambridge University Press). vol. 47. no. 4, 2009, p. 603-626[605]

¹²²P. Williams., (2009) Ibid. p. 616

¹²³P. Williams., ‘A New African Model of Coercion? Assessing the ECOWAS Mission in the Gambia’ *Centre for Security Studies. IPI Global Observatory*, (March 16, 2017) Online: Available at <http://theglobalobservatory.org>

From the above analysis, it is clear that the international and regional communities are in a position to intervene in the Ife-Modakeke conflict either to assist Nigeria to make laws that will end the conflict, or to require the government to use other means, including sanctions, to make Nigeria end the conflict. One such intervention might be to require the Federal government and Osun state government to separate the Modakeke from the Ife by a separate and permanent Local Government.

However, if the international community were to choose to assist in the prevention and management of future violent conflicts between the groups, it would be strong persuasion for Nigeria. Deng *et al* noted that States have the choice of working with the international community to protect their citizens or risk intervention on their sovereignty.¹²⁴

7.7 Conclusion

This chapter has answered the fifth research sub-question: what is the international legal obligation of the Nigerian State to protect the Modakeke and the Ife from each other; to grant internal political and economic self-determination to the Modakeke; and to prevent the human rights of the Modakeke being breached by any individual or group of individuals (whether organs of the State or otherwise)?

This chapter has demonstrated that by virtue of international law provisions on R2P, internal self-determination and international human rights law and regional laws, that the Nigerian State has an international obligation to protect its citizens from the effects of violent conflicts, such as in the case of the Ife-Modakeke conflict. The combined effect of international laws on the prevention of human rights breaches, protection of citizens from war crimes, genocide and ethnic cleansing found in the world leaders' agreement at the 2005 World Summit to protect citizens; the United Nations Resolution 1674 of 2006; and Article 4(h) of the Constitutive Act of the African Union, require States to protect their own citizens from War crimes and genocide. This is proof of the binding nature of the R2P in Nigeria, and it applies to the Ife-Modakeke conflict.

The chapter has also demonstrated that the position of group autonomy and self-determination in customary international law is an inconclusive right made subject to exceptions of State sovereignty and Responsibility to Protect. Therefore, the international community cannot yet

¹²⁴F.M Deng & Others., *Sovereignty as Responsibility: Conflict Management in Africa* (Washington D.C Brookings Institution, 1996) p. 28

force Nigeria to grant internal self-determination to the Modakeke by the application of customary international law. However, the provisions of the ICCPR and the report of the World Submit 2005 although not binding laws on Nigeria, provide very persuasive grounds for Nigeria to grant the Modakeke self-determination to prevent any human right breaches and to help Nigeria manage her internal conflicts as the Modakeke can apply to the ICJ for human right breaches.

On the other hand, the African Charter, to which Nigeria is a signatory, covers many of the rights such as right to self-determination in Articles 19-24 of the African Charter thus giving the African Union a basis for intervention to prevent breaches of human rights in the Ife-Modakeke. The provisions of Articles 47 and 53 of the Africa Charter and the decisions of the Court in *Katangese People's Congress v Zaire*¹²⁵ are indicative of a persuasive power of the African Union potentially to be directed at Nigeria to end the Ife-Modakeke conflict. Since Nigeria has such Constitutional provisions and stands to benefit to protect Her sovereign rights of non-intervention in Her domestic affairs, it makes it feasible for the Nigerian State to accommodate the Modakeke's quest for increased autonomy and self-determination internally both by strengthening the existing legal platforms through clear unambiguous Constitutional provisions for self-determination and democratic considerations for Local Government creation.

The discussions in this chapter are sufficient proof that the international community is in a position to put pressure on the Nigerian State (even though there is no customary international law yet) to end the Ife-Modakeke conflict. Failure by the Nigerian State to protect the Ife-Modakeke by preventing further breaches of their human rights by recognising the right of the Modakeke to internal self-determination therefore could be an invitation to the international community and the African Union to intervene in Nigeria's domestic affairs.

In the alternative, there is the need for enactment of a new Federal legislation on access to self-determination in clear and unambiguous terms. Such legislative initiative must be supported by the government and combined with other initiatives such as educating the government on the way forward for granting internal self-determination without compromising its sovereignty as a State.

¹²⁵ (1994-1995) Case No. 75/92, 8th Annual Activity Report (ACHR/RP/8th)

With the feasibility of Nigeria being pressured to resolve the Ife-Modakeke conflict, the next chapter combines the doctrinal study with the analysis in this chapter to arrive at the answers to the research questions and recommendations to the State on ending the Ife-Modakeke conflict.

8. CHAPTER EIGHT: DISCUSSIONS, RECOMMENDATIONS AND CONCLUSION

8.1 Introduction

The foregoing chapters attempted to interrogate the hypothesis that the government of Nigeria should be advised that the Ife and the Modakeke people, having been in conflict with each other over land, citizenship status and identity issues since pre-colonial times and with the frequency of violent conflict having increased since the end of colonialization, will continue to be in conflict with each other because they have not been effectively separated from each other. And further that economic and political separation of the groups is both feasible and necessary to resolve the Ife-Modakeke conflict.

Evidence and examples from the social, economic and political history of the Ife-Modakeke groups, as part of the larger Yoruba ethnic group, as well as Nigeria's Constitutions and other legislation were used to examine, and ultimately to confirm the hypothesis. This concluding chapter provides a summary of the thesis by considering the evidence and examples which justifies the necessity and feasibility of separating the Ife-Modakeke groups for a permanent resolution of their conflict in Nigeria. The chapter will also provide a summary of the findings and recommendations and proposed directions for future research on the subject.

8.2 Re-visiting the Research Problem

The research problem addressed in this thesis was the result of a hybrid-group in Ile-Ife created by the historical connection of two ancient powerful but independent Yoruba groups in Nigeria namely: the Ife and the old Oyo kingdoms. In pre-colonial times, the Yoruba were comprised of several 'kingdoms' including the Ife and the Oyo (old Oyo). During the nineteenth century, before colonisation, the old Oyo kingdom collapsed as a consequence of internal wars and wars with neighbouring kingdoms. As a result, refugees from the old Oyo kingdom dispersed from the fallen kingdom. Some of the refugees, who later became known as the Modakeke, were accepted by the people of the town of Ile-Ife and were provided with the use of Ife land in return for the payment of tribute (Ishakole) in accordance with Yoruba land law. With time, conflict started between the two groups because of the native/indigene and settler/non-indigene relationship in Yorubaland, land issues, and historical differences in

religion. Although these problems were the central feature of the conflict, the conflict has evolved with increasing complexity involving devolution of power by means of a Local Government area for the groups.¹

The conflict between these two Yoruba sub-groups, has given rise to violent clashes on seven occasions,² the first one (1825-49) occurring before colonisation; two occurring during the British colonial period (1882-1909, and 1946-49); and four occurring since the independence of Nigeria from the British in 1960 (1981, 1983, 1997-1998, and 2000).³ The conflict between the Ife and the Modakeke is notorious in Nigeria, but no successful steps were taken by the British colonialists, and no permanent success has been recorded since the independence of Nigeria in 1960 to resolve the conflict between these separate but integrated groups. Up to this present time, contemporary Ife and Modakeke perceive that the conflict is still potentially explosive between the two groups. In 2014, participants in both the Ife and the Modakeke were asked if they think the troubles between the two communities have been resolved. The question was aimed at further justifying the research interest on the Ife-Modakeke conflict and proffering solutions to the conflict situation. The question asked below was:

Question on the effect of the conflict
Would you say that the troubles between the two communities have been resolved permanently?

Table 11 Coded Responses (with Key) on the Effect of the Conflict

The frequency of the answer is presented below.

Sub-Group	Combined Answer	Young Adults	Middle-aged	Advanced group
Ife	Y=22	Y=2	Y=15	Y=8
	N=12	N=1	N=8	N=3
	NS=11	NS=3	NS=6	NS=1

¹S. Olayiwola & N. Okorie., 'Integrated Education: An Instrument for Resolving Ife-Modakeke Conflict in Osun State, Nigeria' *Journal of Alternative Perspectives in the Social Sciences* vol. 2. no. 2., 2010, p.953-965[954]

²A.R Asiyabola., 'Urban-ethno Communal Conflict in Africa: Nigeria' A Paper Submitted for Presentation at the Union for African Population Studies (UAPS) Fifth African Population Conference, Arusha, Tanzania, 10 -14 December, 2007.

³A.R Asiyabola., (2007) Ibid.

Sub-Group	Combined Answer	Young Adults	Middle-aged	Advanced group
	N/A=5	NA=1	NA=3	NA=0
Modakeke	Y=8 N=24 NS=5 DK=2 N/A=0	Y=1 N=4 DK=2 NA=0	Y=5 N=19 DK=3 NA=1	Y=3 N=3 NS=1 NA=0

Table 12 Frequency of Responses

Key:

Y	Yes
N	No
NS	Not Sure
NA	No Answer
DK	Don't Know

As explained in the methodology session of this thesis in chapter two 2.7, a few of the participants did not want to answer the question, so they replied “no answer.” The replies of those that answered “no answer” were not included in the total percentage calculated. The combined answers to the question did not show much difference between the Ife and the Modakeke perception of the conflict as 66% and 69% of Ife and Modakeke participants respectively responded with considerable scepticism as to the resolution of the conflict either by responding out right that the conflict had not been resolved or by saying that they were not sure if the conflict has ended. However, when grouped by age, the younger the age-group in each community, the more sceptical they were that the conflict had ended. Also, it is significant to note that there were great differences between answers of the three Modakeke

age-groups and the three Ife age-groups. For example, among the advanced age-group (60 and above), 36% of the Ife participants as against 57% of the Modakeke participants said that the conflict had not ended. And 43% of the Ife middle-aged group as against 78% of the Modakeke middle-aged group said the conflict is not resolved. While 57% of the Young Ife group against 85% of the Modakeke group of the same age bracket were not convinced that the conflict had ended. The result of the interview above reveals that in each age-group, the Modakeke had a higher number of participants who do not believe the conflict was over. This suggests that perhaps, even though the Modakeke now have an area office in Ife, since the Modakeke have not been separated from the Ife by means of a Local Government area, they still feel strongly that the conflict will begin again.

An Ife interviewee said:

“The conflict can start anytime.”⁴

In the same vein, a Modakeke Participant noted:

Response 2:

“... I can see fighting coming soon. The Modakeke will not continue to suffer injustice”⁵

Apart from the perception of the contemporary Ife and Modakeke people in 2014, as recently as October 2017, some youth groups in Modakeke called on the Osun State Governor, Mr. Rauf Aregbesola and security agencies in the state to intervene in a fresh crisis brewing between residents of Ile-Ife and Modakeke over allegations of land encroachment.⁶

Unfortunately, the successive governments of Nigeria had refused to treat the two groups as sufficiently distinct from each other so as to justify the demand of the Modakeke for territorial and economic independence from the Ife. It is not physically possible for this independence to take the form of physical relocation of the Modakeke but economic and political separation is feasible by means of a separate local authority for the Ife and for the Modakeke. However, this has not happened, perhaps because customary laws provide that the Modakeke should always be regarded as subordinate to the Ife as they are the later settlers in Ile-Ife. Still, there

⁴ Interview IMA 15

⁵ Interview MMA 22

⁶ “Osun Citizen News: ‘Brewing Ife/Modakeke Crisis: Youth ask Aregbesola to intervene’ 28 October, 2017. Online: <https://osuncitizen.com/2017/10/28/brewing-ifemodakeke-crisis-youths-ask-aregbesola-to-intervene/>

are imperatives which the Nigerian government should observe. First, that section 45 of the Constitution requires that there must be no discrimination between the peoples of Nigeria. Second, that international law requires that the Nigerian State must protect its citizens from violence.⁷ And, third, the African Union treaty (to which Nigeria is a party) has a mandate to ensure that the peoples of Africa live in peace with one another.⁸ It is now time for the Nigerian government to act to end the native/indigene and settler/non-indigene relationship between the groups and provide an equal ground to accessing devolved power by means of a Local Government creation.

This chapter deals with the three imperatives noted above and develops recommendations on the Ife-Modakeke conflict from the analysis and conclusions reached in the seven previous chapters. The social, economic and political history of the two groups revealed major themes that the thesis addressed in chapters three to seven. These themes included citizens' identity issues (native/indigene and settler/non-indigene relationship), economic dependency of groups, devolution of power by means of Local Government creation, international and regional protection of warring citizens from war crimes, abuse of human rights and possible genocide, necessity and power of the federal and state government in Nigeria to end the Ife-Modakeke conflict. Below is the outline of how the thesis addressed the themes that developed in the course of the research.

Chapter one set out the conceptual background to the problem, the theoretical framework or foundation which is the anthropological, sociological and legal basis for group conflict resolution which justifies the separation of the Ife and the Modakeke by means of a Local Government area for the Modakeke. Chapter one also presented the research hypothesis, questions and the scope of the thesis. Chapter two dealt with the application of the methodology throughout the study to arrive at the conclusions. Chapter three provided an analysis of the anthropology of dispute resolution of the Ife-Modakeke through a consideration of their pre-colonial social, economic and political structure to determine the feasibility of physically separating the Ife-Modakeke groups to resolve their conflict. The

⁷ See International Commission on Intervention and State Sovereignty, 'ICISS (2001) Responsibility to Protect: Report of The International Commission on Intervention and State Sovereignty' December 2001. Ottawa: International Development Research Centre. P. XI; the Principle Endorsed by the World Leaders at the 2005 World Summit and Reaffirmed by the Security Council in 2006 in A.J Bellamy., 'The Responsibility to Protect and The Problem of Military Intervention' *International Affairs* (Royal Institute of International Affairs 1944) vol. 84 no. 4, 2008, p. 615-639 [622]

⁸ See Articles 23 of the African (Banjul) Charter on Human and Peoples Rights. Adopted 27 June 1981 OAU Doc CAB/LEG/67/3 rev. 5, 21. I.L.M 58(1982) entered into force 21 October, 1986.

findings indicate that separation was, to a considerable extent, useful for resolving the Ife-Modakeke conflict in pre-colonial times. However, there were challenges to the success of separating the groups such as the Yoruba land law that distinguished indigenes from non-indigenes and the economic dependency of the Ife on Modakeke manpower and the Modakeke dependency on Ife land for survival of the group. These challenges were caused by the social, economic and political structure of the pre-colonial Ife and Modakeke groups. Flowing from this finding, the thesis acknowledged that in order to separate the groups, these challenges must be adequately addressed. Chapter four examined the colonial social, economic and political structure of the Ife-Modakeke, their conflict and conflict resolution and the effect on the resolution of the Ife-Modakeke conflict by separation. The necessity of chapter four arises from the challenges of separating the groups in pre-colonial Nigeria. Chapter five discussed the group's conflict and conflict resolution in the post-colonial Nigeria, the political structure of the modern State of Nigeria and its effect on the Ife-Modakeke conflict by separation. The chapter analysed how the modern State can separate cultural identities from political identities by eliminating the traditional distinction between natives/indigenes and settlers/non-indigenes and by aligning land law with the reality of the ownership and possession of land by groups to end the conflict. The chapter found that the modern Nigerian State, by the operation of its legal principles, has had a negative impact by retaining customary land tenure system through the Land Use Act and by so doing, has sustained the hierarchy between native Ife and settler Modakeke groups. Also, the system of revenue allocation in Nigeria encourages groups to be autonomous and separate because groups only receive and generate a very modest amount of revenue. The chapter also found that the federal government is in a position to resolve the Ife-Modakeke conflict by separation. Chapter six flowed from the discussions in chapter five to examine the necessity, feasibility and power of the states in Nigeria to separate groups by creating Local Government areas in Nigeria. The chapter found that the states have the legal ability to create Local Government areas in their territory however, the federal government ultimately have the final say in the existence of such Local Government. Chapter seven analysed the obligations of the Nigerian State as regards protecting citizens from human rights abuses, war crimes and possible genocide and the feasibility of the international community and the African Union putting pressure on Nigeria to end the Ife-Modakeke conflict. The chapter found that by virtue of the provisions in the Nigerian Constitution, the Constitutive Act of the African Union and ICISS, the Nigerian State is obliged to protect its citizens from the effects of violent conflicts, such as the Ife-Modakeke conflict, and stands to benefit both

economically and with regards to protecting her sovereign rights of non-intervention into her domestic affairs by other States.

8.3 General Findings on the Major Themes of the Thesis

The general findings presented in this thesis were derived from the analysis of major themes which developed from reviewing the literature on the Ife-Modakeke conflict, and dispute resolution from the pre-colonial to the modern era of the groups as well as the responses to the interviews conducted among the contemporary Ife and Modakeke groups in 2014. The major themes emerged from the analysis are summarised below.

8.3.1 The Pre-colonial Relationship Between the Ife and the Modakeke

The study found that the Ife and the Modakeke people are aware of the long enduring conflict and the role that the traditional rulers and traditional conflict resolution has played in trying to resolve the conflict.⁹ The responses from the interview analysed in chapter three demonstrated that the Ife-Modakeke lived as two autonomous groups of the Ife and Oyo kingdoms in pre-colonial Nigeria. The interviews provided the perceptions of contemporary members of the Ife and the Modakeke and verifies available literature on the Ife-Modakeke groups. The interviews revealed that the Yoruba sub-groups, although claiming the same divine origin (Oduduwa), are different people.¹⁰ This supported the argument that the Modakeke can maintain political autonomy from the Ife because they were politically autonomous as part of the old Oyo group in pre-colonial Nigeria.

In this thesis, the unique nature of the Ife-Modakeke groups was a major part of the analysis of the Ife-Modakeke conflict and possible resolution of their conflict. The unique nature of the Ife-Modakeke groups cannot be overlooked in discussing the resolution of the Ife-Modakeke conflict because, as noted in the theoretical framework in chapter one, a group social structure affects the success of their conflict resolution. According to ethnic conflict analysis by sociologists, groups with different status positions will always be in conflict because the superior group strives to maintain its status while the inferior group seeks liberation from an inferior position.¹¹ According to Blumer, group prejudice comes when a

⁹ See coding of the participant responses in appendix 13 and 14

¹⁰ See discussions in Chapter Three

¹¹ J.C Turner., 'Social Categorization and Social Comparison in Intergroup Relations' 1975 Unpublished PhD Thesis University of Bristol
in S. Aharpour., social identity theory and group diversity: an analysis of functions of group diversity (University of Kent Canterbury, 1999)

group feels threatened in its position.¹² As discussed in the analysis of chapter three of this thesis, the Modakeke are a hybrid group from the old Oyo Empire¹³ while the Ife originate from the Ife kingdom to which the Yoruba owe their existence.¹⁴ It follows that the Ife group want to protect their indigene status, while the Modakeke will ever feel threatened as settlers feeling inferior at all times. regardless of how well they are treated by the Ife. The fact that the Modakeke came to reside among the Ife did not remove the reality that they were once from an autonomous society. According to Akinjogbin, the historical consciousness of an average Yoruba is restricted to his sub-cultural group and not the whole Yorubaland.¹⁵ Although, it was possible for Yoruba groups in situations akin to the Modakeke as settlers to become part of their host groups, Falola and Genova noted that the "...Modakeke did not fully integrate with those already living in Ile-Ife..."¹⁶ Therefore, unless they are returned to their state of economic and political autonomy from the Ife, the Ife-Modakeke conflict is unlikely to be resolved permanently. In addition, the interviews conducted by the researcher in 2014 have revealed that both groups recognize their established traditional dispute resolution which mirrors those described in the literature. The traditionally established method of resolution described by participants of both communities shows that the traditional rulers play a great role in resolving internal conflicts in their respective communities and invariably between communities. The powers of the traditional rulers in pre-colonial Yoruba meant that they could resolve conflict between groups and within groups by whichever means they chose including separation. This made separation a possible attempt at resolution of the Ife-Modakeke conflict in pre-colonial times. The thesis acknowledges that physical separation is unlikely in resolving the Ife-Modakeke conflict as it was in pre-colonial times.

8.3.2 The Yoruba Norms of the Native/Indigene and Settler/Non-indigene and the Land Tenure System

Yoruba norms on land tenure and the identity of settlers in a community have been sustained through the pre-colonial times to the colonial and post-independent Nigerian State. Esman has argued that the very nature of the post-colonial State encourages exclusion of subordinate

¹²H. Blumer., 'Race Prejudice as a Sense of group position' *Pacific Sociological Review* vol. 1., 1958, p.3-7 [5]

¹³ O. Olutobi & A. Oyeniyi., *Modakeke from Grass to Grace* (Olutobi Ventures Osun State Nigeria, 1994) p. 2

¹⁴ Ife was traced to the 11th Century as an Established Kingdom. The Encyclopaedia Britannica: Ile-Ife. Online: <http://www.britannica.com/checked/Topic/282720/Ile-Ife>

¹⁵A. Akinjogbin., *War and Peace in Yoruba Land 1793-1893* (Heinemann Educational Books, 1998) p. 16

¹⁶T. Falola & A. Genova., *Historical Dictionary of Nigeria. Historical Dictionaries of Africa. No.111* (The Scarecrow Press Inc. UK, 2009) p. 232

groups.¹⁷ Sorbo and Vale support this theory, pointing out that African governments have “sustained conflicts...to serve their own interest”¹⁸ through exclusion policies where one group is excluded from gaining access to power due to discriminatory norms.¹⁹ Boone also noted that by upholding customary land tenure regimes, the State reproduces and confirms the hierarchical structure of the local political arena.²⁰

The history of the Yoruba land tenure system examined in chapter three of this thesis revealed that the Yoruba land tenure created a system of hierarchy between first settlers in a community and later arrivals. The Yoruba land tenure system brought about the payment of Ishakole by settlers and those in the group who made use of the land of another person. The native/indigene-settler/non-indigene hierarchy, made the physical separation of the groups initiated by the then Ife traditional ruler Oba Abewaile short-lived. In addition, the economic structure of pre-colonial Yoruba which centred mainly on farming, fishing and trading meant heavy reliance on human labour which likely made the settler Modakeke groups valuable assets to the Ife and prompted the Ife to want to keep the Modakeke within the Ife territory. The thesis also found that the Ife and the Modakeke people recognize that the authority of their traditional rulers was reduced by the colonial administration in Nigeria. Sadly, the efforts of the colonial administration in separating the Ife from the Modakeke through the Treaty of Peace in 1886 was short lived because the Yoruba norm which discriminated against settlers on land ownership (Ishakole) continued during the colonial era. Also, the traditional rulers lost their absolute authority to resolve conflicts in colonial times thus they could not institute another separation of the Modakeke from the Ife. The Modakeke returned to the Ife mainland in 1920 and this provided an avenue for the continuation of the Ife-Modakeke conflict in colonial Nigeria.

The study found that post-independent efforts of the Nigerian State have not led to a permanent resolution of the Ife-Modakeke conflict. The State, by means of the Constitution in section 147 which prevents non-indigenes from participation in political offices in communities and the Land Use Act of Nigeria 1978 which continued communal land ownership, has continued the discrimination between native/indigene and settlers/non-indigenes in Nigeria. And by extension the Constitution and the Land Use Act appear to have

¹⁷J.M Esman., *Ethnic Politics* (Ithaca, New York: Cornell University Press, 1994) p. 19

¹⁸M.G Sorbo & P. Vale., *Out of Conflict from War to Peace in Africa* (Nordiska Afrikainstitute, Uppsala, 1997) p. 132

¹⁹M.G Sorbo & P. Vale., (1997) Ibid. p. 141

²⁰ C. Boone., *Property and Political Order in Africa. Land Rights and the Structure of Politics. London School of Economics and Political Science* (Cambridge University Press, 2014) p.109

empowered the Ife natives from discriminating against the Modakeke settlers or non-indigenes. In the same way the Land Use Act has emboldened the Modakeke to stop paying the Ishakole land rent by arguing that all lands belong to the government. This has continued the conflict between the groups. However, the issue of land tenure has been settled by the Supreme Court of Nigeria in *Elegushi v Oseni* ²¹ by setting forth the five types of legal ownership of land in Nigeria. This settles the issue of Modakeke land use in the land they occupy in Ife through long possession. However, rulings of the Court in *Chief Alani Akanmu v Raji & Others*,²² stating that the agreement to pay ground rent on the land, Ishakole, is “an obligatory rent whose main purpose is to ensure subsistence of revisionary rights upon forfeiture of a customary tenancy for any reason”²³ is in favour of the Ife collecting ground rent from individual Modakeke farmers leasing land from the Ife. Therefore, there ought not to be any further tension in this regard, even though the Modakeke are likely to continue to be angered by the payment of Ishakole (as they still term it) or ground rent (as the Supreme Court terms it).

8.3.3 The Power of the Federal and State Government of Nigeria to End the Ife-Modakeke Conflict

Another theory of group conflict is the State as contributor to conflict by means of ineffective intervention and by exclusion policies which contribute to group conflict. Subaru’s work on ethnic minority conflicts demonstrates that the lack of effective intervention by the Nigerian State in ethnic conflict situations was largely due to over-centralization of power and resources in the federal government.²⁴ A consideration of the social-economic and political structure of the modern State of Nigeria, right from post-independent Nigeria, revealed that the Nigerian State has often used military force to end the violence from the conflict and made use of committees/commissions established to manage the conflict. However, the recommendations of these committees have not been acted upon. The use of police or military force to end violence could be beneficial to the Ife and the Modakeke in the short-term. However, in the long term, the State granting autonomy to the groups to each control their political lives separately within Nigerian by means of a Local Government area is most likely to end the conflict between the groups. Interestingly, from the interviews conducted in 2014

²¹ (2005) 14 Nigeria Weekly Law Report, Pt. 945, p. 348

²² (1990)3 Nigeria Law Reports. p. 30

²³ *Chief Alhaji K.S.O Akanmu v Raji Ipaye & Others* (1990) Ibid.

²⁴ R.T Suberu., *Ethnic Minority Conflicts and Governance in Nigeria* (Spectrum Books, Ibadan, 1996) p. 67

among the Ife and the Modakeke groups, the thesis found that each group recognize the need to co-operate with the Nigerian State in the resolution of their conflict, thus making State intervention in their conflict resolution feasible and more readily acceptable to the groups.

The thesis found that the federal character principle in the Constitution was designed to allay the fears of domination of minority groups by the majority groups in Nigeria. However, the federal character principle which ensures a quota system for fair distribution of public services in the country among groups, have only led to dual citizenship loyalties. Leading to situations where the group interest comes before State interest, elites of groups continue to clamour for more control of resources by means of revenue allocation, state creation and Local Government creation for their respective groups. The thesis found that the revenue allocation formula which gives the majority of revenue to the federal government of Nigeria and the subsequent distribution to the states and Local Government areas without internally generated revenue from the states and Local Governments have contributed to the struggles of groups to own their respective Local Government areas where they can misappropriate the resources while generating little or no revenue themselves.

The thesis also found that by virtue of section 8 of the 1999 Constitution on the creation of Local Government in Nigeria, the federal government is in a position to assent to the creation of Local Government by states in Nigeria. This power had been misused by the federal government to refuse the creation of more Local Governments in the country. The government have also used their Constitutional powers in section 162 of the Constitution to starve newly created Local Governments of funds, thereby discouraging the creation of new Local Government areas in the country. Although the states of Nigeria have legal powers to create Local Governments as provided in chapter 7 of the 1999 Constitution of Nigeria, the ultimate existence and life of a Local Government lies on the federal government. Furthermore, most states in Nigeria have deliberately encroached on the autonomy and revenue of Local Governments, thus making the Local Governments inefficient and not a true third tier government in Nigeria.

8.3.4 Persuasion of the Nigerian State to End the Ife-Modakeke Conflict by Granting Internal Self-determination to the Modakeke Group

The thesis also found that the Nigerian State can be persuaded by the traditional international law on autonomy and self-determination promoted by the West because, by virtue of the

United Nations charter and the African Union constitutive Act, the international community and the African Union can intervene in a sovereign State's internal affairs on matters of human rights violations and when a State fails on its responsibility to protect its citizens from human rights violations and genocide. The African Union promotes internal self-determination by means of democratic practices and the Nigerian State, being a member of the African Union, can, therefore, be persuaded to exercise its democratic powers to make laws ensuring that all groups have equal access to devolved powers by means of Local Government for those groups that require and qualify for one. By so doing, the Nigerian State will benefit by ending the costly Ife-Modakeke conflict and protecting their sovereign rights to manage their domestic affairs without intervention from outside communities. Below is a discussion of the specific findings and recommendations on each of the research sub-questions.

8.4 Specific Findings and Recommendations on Chapter Three the Pre-colonial History of the Ife and the Modakeke and the Idea of Separation

Chapter three of the thesis analysed the social, economic and political structure of the Ife and the Modakeke as part of the larger Yoruba group in Nigeria. The chapter determined whether these structures demonstrate separation as a useful tool for conflict prevention and resolution in pre-colonial Ife-Modakeke history. The chapter answered the first research sub-question: "to what extent does the pre-colonial social, economic and political structure of societies such as the Ife and the Modakeke demonstrate that separation was useful for conflict prevention and resolution and how successful was separation in preventing and managing the Ife-Modakeke conflict in pre-colonial times?"

A major finding of the chapter is that the Ife and the Modakeke are part of the wider Yoruba group in West Africa and Nigeria and that although they had close cultural and economic ties they enjoyed political and judicial autonomy and self-determination from each other as Yoruba sub-groups. It also shows that pre-colonial dispute resolution of the Ife-Modakeke was highly dependent on hierarchical authority and such authority meant that physical separation was possible at the request of the highest authority of the land, but the loss of support from the various checks and balances existing within the authority led to an unsuccessful resolution of the Ife-Modakeke conflict in pre-colonial times. By means of evidences from the history of Ife-Modakeke conflict and dispute resolution, the chapter laid the foundation for advising the government of Nigeria to grant the Modakeke economic and political self-determination from the Ife.

An analysis of the social-economic and political structure of the Ife and Modakeke as sub-groups of the Yoruba provided illustrative examples and evidence that due to the unique relationship between the Ife and the Modakeke from Oyo, the separation initiated by the Ife king to resolve the Ife-Modakeke conflict was only short lived in preventing and managing the Ife-Modakeke. To reach this conclusion, the chapter presented evidence on the following key aspects of the Ife-Modakeke social, economic and political structure in pre-colonial times: (1) causes of Ife-Modakeke conflict and separation attempts (2) kinship ties (3) land tenure (4) the Yoruba pre-colonial economic system (5) pre-colonial state capitals and subordinate towns and the power of the king. The evidence presented under the key aspects discussed above answered the first research sub-question by demonstrating that, to a large extent, the pre-colonial social, economic and political structure of the Ife and the Modakeke shows that separation was useful for conflict prevention and resolution and was successful in preventing and managing the Ife-Modakeke conflict in pre-colonial times. However, there were challenges to the success of separating the groups. These challenges were caused by the social norm of the Yoruba which encouraged separate and autonomous existence of the Yoruba groups, native/Indigene-settler discrimination, economic benefit and the reliance of the Ife on Modakeke migrant labour and the political structure of the pre-colonial Ife and Modakeke sub-groups. The thesis in acknowledgement of these challenges recommended that in order to separate the groups, the native/Indigene-settler discrimination in the use of land, economic reliance on the Modakeke labour input and the power of the kings to order such physical separation must be addressed to enable permanent separation of the Modakeke from the Ife.

8.5 Specific Findings and Recommendations on Chapter Four on the Colonial Social, Economic and Political Structure of the Ife-Modakeke and the Feasibility for Separation

Chapter four analysed the social, economic and political structure of the Ife and the Modakeke in colonial times to determine their effect on the resolution of the Ife-Modakeke conflict. The materials retrieved from archives, published literature and contemporary oral testimonies of the Ife and the Modakeke groups in 2014 provided illustrative examples of the effect of the colonial administration on the Ife-Modakeke conflict.

A time-line for the colonial rule was identified running from the period of trading of the British in Nigeria in 1886 to 1960 when Nigeria gained her independence. The chapter applied the analysis of the social, economic and political structure of the groups in colonial times to answer the second research sub-question: to what extent does the colonial social,

economic and political structure of the Ife-Modakeke demonstrate separation as a means of resolving their conflict?

The preliminary finding under this chapter is that the social, economic and political structure of the Ife and the Modakeke in colonial times made separation difficult as a means of resolving the Ife-Modakeke conflict because the traditional rulers lacked the judicial power to separate the groups and the colonial government sustained the norms of the Yoruba which prejudiced all efforts at separation such as the hierarchy created between natives and settlers in land tenure by means of the Constitution. The method of resolution of the conflict initiated by the British colonial administration through having parties to all the existing local conflicts in the Yoruba land sign a peace Treaty in 1886²⁵ with the 5th clause of the Treaty providing that the Modakeke should abandon their land and move to the mainland of the Ife²⁶ and for the Modakeke land to revert to the Ife kings and chiefs who were to deal with the land as they thought expedient²⁷ was clearly one which sustained the native/indigene-settler hierarchy relationship between the Ife and the Modakeke. It was a clear statement that the land belonged to the first settlers the Ife thus the Modakeke had no rights to the land as settlers in Ife.

Also, all the colonial Constitutions from 1922 to 1960 in Nigeria had elements that fostered the native-settler relationships along political lines.²⁸ The regionalization policy in the 1946 Constitution led to the creation of three majority groups, the Hausa in the North, the Yoruba in the West and the Igbo in the East. Within these groups lay minorities and further minorities within the minorities.²⁹ The regionalism introduced by the 1946 Constitution led minority groups to begin clamouring for the creation of more states and Local Government areas to alleviate the discrimination suffered by the minority tribes in the regions.³⁰

To prove that the two conflicts during the colonial period were related to the non-enforcement of the separation of the groups in colonial times, the chapter demonstrated that the land tenure in the colonial era remained largely communal but with the increased value of land came the

²⁵S. Johnson., *The History of the Yoruba from the Earliest Times to the Beginning of the British Protectorate* (George Routledge and Sons, 1921) p. 723

²⁶I.A Akinjogbin., *The Cradle of a Race: Ife From the Beginning to 1980* (Sunray Publications. Port Harcourt, 1992) p. 272
Akinjogbin, I.A., (1992) Ibid. P.272

²⁷See 1886 Treaty in Appendix of S. Johnson., (1921) Ibid.

²⁸ O.O Akanji., 'The Problem of Belonging: The Identity Question and the Dilemma of Nation-building in Nigeria' *African Identities* (Routledge Taylor & Francis Group) vol. 9 no.2, May 2010, p. 117-132[118]

²⁹ Chapter Five examines in more details the impact of the majority-minority problems raised by the Regionalism created by the 1946 Constitution had on the Ife-Modakeke conflict

³⁰See B. Smith., 'Federal-State Relations in Nigeria. African Affairs' (Oxford University Press on behalf of The Royal African Society) vol. 80 no. 320., July 1981, p. 355-378 [356]

prominence of the discrimination between natives and settlers where the settler Modakeke could not use land freely as did the Ife indigenes, thus the continuation of the conflict. Also, the native/settler relationship meant that to their own displeasure the Modakeke continued to pay the Ishakole as land rent in colonial times. Furthermore, the chapter provided evidence and examples from the colonial times to show the hardship of not separating the groups in times of economic boom of agriculture and oil in the colonial times. The political structure of the groups in colonial times also revealed that indirect rule elevated the Oyo over the other Yoruba groups thereby creating power struggles which affected the Ife and Modakeke conflict.

The chapter recommends that to resolve the Ife-Modakeke conflict, it is necessary to separate the norms of the people from the realities of dispute resolution because non-separation of the Yoruba norm of Ishakole and native/indigene-settler relationship made the colonial government unable to resolve the conflict by separation.

8.6 Specific Findings and Recommendations on Chapter Five on the Impact of the Modern Nigerian State on the Ife-Modakeke Conflict and Dispute Resolution

The chapter examined the impact of the social, economic and political structure of the modern State on the Ife-Modakeke conflict, attempts at dispute resolution and the power of the federal government to assent to a creation of a Local Government for the Modakeke group. Chapter five provided an account of the four violent clashes of the Ife-Modakeke and various attempts at dispute resolution in post-independent Nigeria and then applied a legislative perspective in the analysis of the impact of the social, economic and political structure of the modern State in the Ife-Modakeke conflict and dispute resolution. The Nigerian Constitution, as well as other types of legislation, was used to illustrate the impact of the Nigerian State on the Ife-Modakeke conflict and dispute resolution.

The chapter examined the four (1981, 1983, 1997-98 and 2000) violent clashes between the groups in post-independent Nigeria to identify the triggers to the clashes for a solution to the conflict. The impact of the modern State on the Ife-Modakeke conflict and dispute resolution was accessed by answering the third research sub-question: “to what extent does the social, economic and political structure of the modern Nigerian State affect the Ife-Modakeke conflict and dispute resolution in relation to the separation of the groups?”

In answer to the research sub-question in chapter five, the chapter found that the major cause of the four violent post-independent clashes between the groups was the Modakeke's quest for internal self-determination from the Ife by means of a Local Government dominated by the Modakeke. From the interviews conducted among the Ife and the Modakeke in 2014 and the academic records of the four clashes between the Ife and the Modakeke in post-independent Nigeria, the study found that the State always intervened in the conflict by means of military intervention and setting committees to investigate the clashes. However, the use of military intervention was not sufficient in resolving the Ife-Modakeke conflict. Military intervention merely helped to stop the violence at the particular time only for it to erupt again in another violent clash. Neither were the recommendations of the various committees followed and as a result the conflict remained unresolved.

The analysis in this chapter also led to the finding that the Land Use Act 1978 institutionalised the customary ownership of land, empowering customary landowners to allocate and reallocate lands. Further, it empowered the State, through the Land Use Act, to uphold customary land tenure regime, the State thus reproducing and confirming the hierarchical structure of the local political arena.³¹ In the case of the Ife and the Modakeke, the State thereby sustained the hierarchy between the native/indigene Ife and the settler Modakeke in the unequal rights to land. That is why, even after the last recorded violent conflict in 1999/2000, there had been threats of a repeat of violence following Ife refusal to allow the Modakeke group to use land freely in Modakeke.³² Otite noted that the 1978 Act led the Modakeke to assume freedom from paying their ground rent to Ife thus increasing the conflict between the two groups.³³

With regards to the economic impact of the modern State structure on the Ife-Modakeke conflict, the study determined that the revenue allocation formula from the 1960 Constitution to date makes groups such as the Ife and the Modakeke rely heavily on the revenue allocated to Local Governments from the federal and state accounts without much internally generated revenue. Therefore, groups such as the Modakeke have stronger appeal for Local Government areas in order to get more revenue for the betterment of their group. In like manner, groups such as the Ife prefer to have the Modakeke as part of their area for more revenue allocation.

³¹C. Boone., (2014) Ibid. p. 109

³² "Osun Citizen News: 'Brewing Ife/Modakeke Crisis: Youth ask Aregbesola to intervene' 28 October, 2017. Online: <https://osuncitizen.com/2017/10/28/brewing-ifemodakeke-crisis-youths-ask-aregbesola-to-intervene>

³³See analysis in Chapter Three, O. Otite., *Ethnic Pluralism, Ethnicity and Ethnic Conflicts in Nigeria: with Comparative Materials* (Shaneson. Ibadan, 2000) p. 24

This lure for more Local Government revenue from the federal and state accounts sustains the Ife-Modakeke conflict in post-colonial Nigeria. The current vertical allocation of the revenue in the federation account from the year 2000 is 52.68%, 26.72% and 20.60% to the federal, state and Local Governments respectively.³⁴ The thesis argues that, because of the increase in allocation to the Local Governments and the sharing formula, separation appears to be more appealing to groups such as the Modakeke so as to control the revenue coming into their group.

In addition, the basis for the horizontal formula for sharing revenue between states and Local Government areas, such as population, equality of states, internal revenue generation, land mass and the principle of derivation, has contributed to the conflict of groups such as the Ife and the Modakeke. For example, there are benefits from having more population, thus groups such as the Ife stand to benefit from having the Modakeke as extra population and greater land mass for extra revenue allocation. The general recommendation is that revenue allocation should be towards national economic development rather than geopolitical considerations. However, as the revenue allocation formula stands, to ensure basic amenities go to each group fairly, the only way to pacify both the Ife and the Modakeke is to separate them financially by creating a Local Government for the Modakeke to enable them to control their finances themselves. For as long as federal and state revenue continues to be the main source of revenue for Local Governments, separation of the Ife from the Modakeke is the only way to ensure that the Modakeke feel that they are fairly dealt with economically in the Ife.

With regards to the impact of the political structure of the modern State on the Ife-Modakeke conflict, the chapter found that the Nigerian State by means of section 147 (3) sustains a hierarchy between groups as native/indigene against settlers because a settler cannot access devolved powers equally regardless of how long they have lived in an area. As a result, it becomes increasingly difficult for groups in Nigeria such as the Modakeke to get access to devolved power by means of a Local Government area without triggering opposition from indigene groups such as the Ife who maintain pride of place. The chapter found out that the political structure of the Federal State also provides precedence of conflict resolution in Nigeria by the Federal State sharing powers with the states in order to curb majority-minority conflicts. Also, section 8 of the Constitution gives the Federal government the power to assent

³⁴A. Salami., 'Taxation, Revenue Allocation and Fiscal Federalism in Nigeria: Issues, Challenges and Policy Options' *Economic Annals* vol. 6 no. 189, 2011, p. 27-50 [41]

to a creation of a Local Government for the Modakeke. Therefore, the Federal State is in a position to effect conflict resolution at the grassroots by enabling states to share powers with the Local Governments. In so doing, the Federal State can resolve the Ife-Modakeke conflict by accentuating Local Government created by states and funding such Local Governments.

The chapter also found that the federal government is in a position to assent to a Local Government being created for groups in Nigeria and without the assent of the federal government, any Local Government created by a state is on the path of destruction and inactivity.

The thesis recommends that the Constitution of Nigeria be amended to give all individuals in Nigeria equal access to power and resources by removing the word 'indigene' in section 147 and replacing it with 'citizen' giving equal opportunity to all Nigerians regardless of where they live within the country because the word indigene makes later settlers in an area second-class citizens³⁵ which should not be the spirit of the Constitution.

8.7 Specific Findings and Recommendations on Chapter Six on the Necessity, Feasibility and the Power of the states to Create Local Governments in Nigeria

Chapter six focused broadly on the power of state governments in Nigeria to create local authority governments, on the necessity and the feasibility of doing so for the Modakeke, and on the responsibility of the sovereign Federal government to intervene. The chapter demonstrated that the states within the Federal Republic of Nigeria including the Osun state of Nigeria, have the legal power to create local authority governments pursuant to section 7 of the 1999 Constitution of Nigeria. The chapter discussed the necessity of Osun state to create a Modakeke Local Government putting into consideration the law and the wider political, economic and demographic circumstances in Nigeria.

The contention of the chapter was that if Osun state has the legal power to create a local authority government for the Modakeke but either Osun state takes the view that it is not necessary or feasible for it to do so in the circumstances, or fails to exercise any proper decision-making function on the issue, then the issue becomes one for the Federal government

³⁵O. Olakunle, I. Joseph & O. Segun., 'Indigene-settler relationship in Nigeria: A Case Study of the Igbo Community in Lagos' *Afro Asian Journal of Social Sciences* vol.7 no. 3, 2006, Quarter 3, p. 3

either to instruct Osun state to act so as to create the necessary authority, or for the Federal government to take the matter into its own hands. This contention was based on the principle of attribution of internationally wrongful acts by organs of States on the State.

The chapter demonstrated the necessity and relevance of creating a Local Government for conflict resolution. The chapter provided evidence from the Federal Constitution to show that the Osun state of Nigeria has the legal power to create a new Local Government authority for the Modakeke, and that it is both necessary and feasible for Osun state to do so notwithstanding, first, any consequences for the Ife, and from the Ife and, second, any demands for similar treatment by other Nigerian ethnic groups.

Beginning with the definition of Local Government and the importance of having local governance in a country such as Nigeria, the chapter analysed the history of local governance in Nigeria to establish its impact and relevance in the resolution of the Ife-Modakeke conflict. The Constitutional provisions for local governance and the possibility of creating Local Government areas for groups such as the Modakeke in Nigeria were also examined. The chapter concluded with the argument that the modern State of Nigeria is in a position legally to create a Local Government for the Modakeke and the failure to create such Local Government will only lead to continued conflict between the Ife and the Modakeke.

The chapter provided evidence from the Constitution by virtue of section 7, and the fourth schedule of the 1999 Constitution that the Ife-Modakeke conflict can be resolved by an economic and political separation of the Modakeke from the Ife through the creation of a new Local Government authority for the Modakeke, notwithstanding any consequences from the Ife and demands of similar treatments by other Nigerian ethnic groups. The chapter found that there are very challenging obstacles to creating a Local Government area for the Modakeke by virtue of part 1 of the first schedule and section 162 on funding of the Local Government areas. However, the challenges are more political than legal considerations on the part of the Federal government. Therefore, it is within the realms of the Federal government to resolve the Ife-Modakeke conflict by assenting to the creation of a new Local Government area for the Modakeke.

8.8 Specific Findings and Recommendations on Chapter Seven on the International Obligation of the Nigerian State to Separate the Groups and end the Ife-Modakeke Conflict

The chapter analysed the obligation of the Nigerian government as part of the international community to grant self-determination to the Modakeke to prevent intervention from the international community and the African Union and how it affects Modakeke struggles for internal self-determination. The purpose of the analysis was to demonstrate that separation of the Ife and the Modakeke is essential for the resolution of the Ife-Modakeke conflict to prevent the international community (including the African Union) from pressurising Nigeria to resolve the conflict by other means that are likely to lead to greater conflict. There is a risk that a lack of resolution may give rise to outside intervention based on Nigeria's responsibility to protect its citizens and in furtherance of the protection of the Human Rights of the Ife and the Modakeke peoples in Nigeria.

The chapter identified the problems of Nigeria not granting self-determination to the groups by means of a Local Government area dominated by the Modakeke by engaging in two key aspects of group autonomy and self-determination namely (1) sovereignty, non-intervention and Nigeria's responsibility to protect citizens (2) the African Union's protection of groups from Human Rights breaches.

The chapter answered the fifth research sub-question on the international legal obligation of the Nigerian State to protect the Modakeke and the Ife from each other; to grant internal political and economic self-determination to the Modakeke; and to prevent the human rights of the Modakeke being breached by any individual or group of individuals (whether organs of the State or otherwise).

This chapter demonstrated that by virtue of international law provisions on R2P, internal self-determination and international human rights law and regional laws, that the Nigerian State has an international obligation to protect its citizens from the effects of violent conflicts, such as in the case of the Ife-Modakeke conflict. The combined effect of international laws on the prevention of human rights breaches, protection of citizens from war crimes, genocide and ethnic cleansing³⁶ requires States to protect their own citizens from war crimes and genocide,

³⁶ See the World leader's agreement at the 2005 World Summit to protect citizens; the United Nations Resolution 1674 of 2006; and Article 4(h) of the Constitutive Act of the African Union

proving the binding nature of the R2P in Nigeria, and this applies to the Ife-Modakeke conflict.

The chapter also demonstrated the position of group autonomy and self-determination in customary international law as an inconclusive right made subject to exceptions of State sovereignty and Responsibility to Protect. Therefore, the international community cannot yet force Nigeria to grant internal self-determination to the Modakeke by the application of customary international law. However, the provisions of the ICCPR and the report of the World Summit 2005, although not binding laws on Nigeria, provide very persuasive grounds for Nigeria to grant the Modakeke self-determination to prevent any human rights breaches and to help Nigeria manage her internal conflicts as the Modakeke could apply to the ICJ for such breaches.

On the other hand, the African Charter, to which Nigeria is a signatory, which covers many of the rights, such as right to self-determination in Articles 19-24 of the African Charter, gives the African Union a basis for intervention to prevent breaches of human rights in the Ife-Modakeke. The provisions of Articles 47, and 53 of the Africa Charter and the decisions of the Court in *Katangese People's Congress v Zaire*³⁷ are indicative of a persuasive power of the African Union potentially to be directed at Nigeria to end the Ife-Modakeke conflict. Since, Nigeria has such Constitutional provisions and stands to benefit to protect Her sovereign rights of non-intervention in Her domestic affairs, it makes it feasible for the Nigerian State to accommodate the Modakeke's quest for increased autonomy and self-determination internally both by strengthening the existing legal platforms through clear unambiguous Constitutional provisions for self-determination and democratic considerations for local authority creation.

The discussions in this chapter are sufficient proof that the international community is in a position to put pressure on the Nigerian State (even though there is not yet any customary international law) to end the Ife-Modakeke conflict. Failure by the Nigerian State to protect the Ife and the Modakeke by preventing further breaches of their human rights by recognising the right of the Modakeke to internal self-determination therefore could be an invitation to the international community and the African Union to intervene in Nigeria's domestic affairs.

³⁷ Case No. 75/92, 8th Annual Activity Report 1994-1995(ACHR/RP/8th)

In the alternative, there is the need for enactment of a new Federal legislation on access to self-determination in clear and unambiguous terms. Such legislative initiative must be supported by the government and combined with other initiatives such as educating the government on the way forward for granting internal self-determination without compromising its sovereignty as a State.

The chapter also found that the cost of the Ife-Modakeke conflict to the Ife and Modakeke people, as well as the Nigerian State, has been enormous. Ending the conflict will ensure that there is no further financial, emotional and moral condemnation from other States on the Nigerian State. The chapter, therefore, recommended that in order to protect her international image and take the lead in carrying out her obligations towards citizens and the protection of Human Rights in Africa, the Nigerian State should take steps to separate the Ife-Modakeke to end their conflict. Also, there is the need for enactment of a new legislation on access to self-determination in clear and unambiguous terms. Such legislative initiative must be supported by the government and combined with other initiatives such as educating the government on the way forward for granting internal self-determination without compromising its sovereignty as a State.

8.9 Directions for Future Research: The Need to Analyse How Nigeria Can Strengthen the Constitution and Laws to Enable Equal Access to Devolution of Power Through Local Government Creation in Nigeria

“The tribes are no longer the landlords of Nigeria. Rather, they are now the subjects of Nigeria. Nigeria owns the tribes within it. No tribe can assert its independence on Nigeria or defy its Statutes. The Nigerian army will come knocking if the Nigeria Police is unable to dissuade such adventurism”³⁸

As the above quotation demonstrates, the current awareness of Nigerians is the suppression and destruction of group quest for autonomy, demonstrating that most Nigerians, and even the government of Nigeria, is unaware of the possibility of creating equal access of devolution of power without violence or impacting on State sovereignty.

³⁸The Vanguard Newspaper: ‘Confab: No to Tribal Delegates’ 28 October, 2013. Online: <http://www.vanguardngr.com/2013/10/Confab-Tribal-Delegates-1>. Assessed 08/03/14

The actual issue now is how to legalise the enforcement of internal self-determination provided for in the African Charter by giving a clear definition of the peoples and the scope of this right, taking into consideration the arguments of third world countries for democratic settings backed by African Union decisions. Unfortunately, there is no institutional body that is completely dedicated to set out for the review of the African Charter self-determination for groups and there are no scholarly works examining the court's positions on internal self-determination for groups under the African Union. There are success stories of accommodation of group conflict resolution by the modern State. This can form a basis for educating the Nigerian government on how it can achieve similar success in resolving the century long Ife-Modakeke conflicts. Also, the recommendation for setting up a local committee that will look into the administrative nature of upgrading the area office in the Modakeke into a full Local Government area that will serve to separate the groups politically and end the conflict is the subject of further investigation. It is hoped that this will form the basis for future research.

8.10 Conclusion

In final conclusion, the Osun state government of Nigeria has the power to create a Local Government for the Modakeke to end the Modakeke quest for autonomy and internal self-determination from the Ife. The federal government should take steps to separate the Ife from the Modakeke by assenting to the creation of a Local Government area dominated by the Modakeke to keep the two groups apart by appropriate State intervention; and to maintain that autonomy and separation by entrenched national laws. By doing this, it is hoped that the Ife-Modakeke conflict, of many centuries, can be rendered peaceful and any disputes can be addressed through negotiated rather than violent means.

9. APPENDICES

APPENDIX 1- ETHICS CLEARANCE:

NB Email not readable but with the University of Westminster



APP. NO. 12-13-05: Oghenerobo

RESC 26 June 2013 Minute 1.3.1

PRIVATE AND CONFIDENTIAL

Okuda Ewomazino Oghenerobo

40 Knoyle Street

London

SE14 6JE

28 June 2013

Dear Okuda

App. No. 12-13-05,

Name: Okuda Ewomazino Oghenerobo - School of Law

Mode: MPhil/PhD,

Supervisor: Kim van der Borcht

Title: State intervention in ethnic conflict resolution: an anthropo-socio-legal analysis of ethnic conflict resolution in Nigeria

I am writing to inform you that your application was considered by the Research Ethics Sub Committee on 26 June

2013. The proposal was approved in principle subject to the following conditions/comments being addressed to the

satisfaction of your supervisor:

- Applicant to discuss using an Intellectual Property form for participants to sign with Cameron Thompson,

Assistant University Secretary (c.thomson@westminster.ac.uk).

I wish you every success with your research project.

Yours sincerely

Dr Bob Odle

Acting Secretary, Research Ethics Sub Committee

**APPENDIX 2-UNIVERSITY OF WESTMINSTER ETHICS CLEARANCE FORM
PART B**

PART B

N.B. Please ensure you have completed the Cover Sheet and Part A, and check that you need to complete Part B before proceeding with further details below.

Section 4 – Risk Assessment and Hazard Analysis

4.1 Describe any potential hazards which may cause harm or distress to the participants, psychologically or physically, in the study and/or any potential harm to the community, environment etc:

4.2 Give details of any measures taken to reduce the risk of such harm or distress to the participants, psychologically or physically, in the study (e.g. COSHH or other risk assessment forms – any such forms should be attached to this application form):

4.3 Outline the extent to which these risks are balanced against the potential benefits to education and/or the contribution to scientific knowledge:

4.4 What criteria will be employed for deciding the end point at which the study will stop because of unjustifiable further risk of harm or distress, psychologically or physically, to the participants?

4.5 What monitoring mechanisms will be in place to decide when some or all participants should be withdrawn from the study i.e. explain what your procedures and criteria for detecting and addressing these issues are (such as a half-way point check)? Also what procedures are to be used, and subsequent observations made, on participants for the purpose of detecting any harm or distress, psychologically or physically, to the participants arising from the study?

Section 5 – Informed Consent of Participants, Recruitment of Participants

5.1 It is an expectation that written consent will always be obtained from participants. Have you obtained or will you be obtaining written consent?

☐ ☐ Yes (Please attach a consent form which will be used for your study, failure to do so may result in a delay in consideration by the UREC)

☐ ☐ No (if you think this does not apply please justify your reasons)

5.2 Is there a Participant Information Sheet?

☐ ☐ Yes (Please attach a Participant Information Sheet which will be used for your study, failure to do so may result in a delay in consideration by the UREC)

☐ ☐ No (if you think this does not apply please justify your reasons)

5.3 How and where will you make contact with the participant(s) in order to recruit them?

5.4 How will consent be obtained and stored?

Please note, storage at home or on personal lap tops may be considered insufficient to the requirements of the Committee.

5.5. Is parent/guardian consent required for any participants under 18 years of age?

☐ ☐ Yes

☐ ☐ No

5.6. How will this be obtained?

Section 6 –Expenses and Conflict of Interest

6.1. Will expenses be paid to participants?

☐ ☐ Yes (If yes, how much?)

☐ ☐ No

6.2. Will a reward separate from expenses be made to participants?

☐ ☐ Yes (If yes, please give more details)

☐ ☐ No

6.3. Will any of the participants be known to you? If so please indicate your relationship with them?

☐ ☐ Yes (If yes, please give more details)

☐ ☐ No

Section 7 – Confidentiality of Information, Data Protection and Freedom of Information

7.1 Who will you be sharing information with? Please tick the relevant box(s):

	Yes	No	N/A
Others, please specify:			
Others on the project			
External collaborators			
Commercial organisations and funding councils			
Participants			

Research Councils/Funding bodies			
Charities			
Sponsors			
Other Higher Education Institute			
Other please specify:			

7.2 Will the study include:

- ☐ ☐ Named participants (**for consent purposes only**)
- ☐ ☐ Participants whose names have been separately coded
- ☐ ☐ Anonymous participants

7.3 – How will you store and make secure the data and/or material of human origin collected in the study?

7.4 If the investigation involves storage of computerised data which might enable a participant to be identified, please name the person in charge of computer system security for the study?

7.5 Does the study include use of, or planned publication of, photographs or videos either of individuals or any human material?

Human material Yes ☐☐☐☐☐☐ No ☐

Individuals Yes ☐☐ No ☐

If yes to either of these, please provide a copy of the consent form which participants will be asked to sign for this purpose (please attach a copy to your application).

Section 8 – Funding and links with external organisations

8.1 If your work involves research which includes working with or being facilitated by those external to the University, please provide details of any organisations/individuals involved

Contact Name	Contact Name
Address	Address
Telephone Number	Telephone Number
Please provide a copy of any agreement between the organisations/individuals (this should be attached to your application form, failure to do so may delay your application for approval, as it is good practice to receive agreements with facilitators/collaborators in advance).	

8.2 Is this study initiated/sponsored?

☐ ☐ Yes

If yes, give the **name** of the organisation/individual:

What benefits will you receive, if any, for conducting this research by the organisation or individual named above, please state:

Section 9 – Insurance

(If uncertain about answering any questions in this section, please contact the University's insurance officer; Procurement Manager Andrew Rance)

9.1 Are manufacturers of any of the products used (for testing) providing insurance cover?

☐ ☐ Yes (If yes, please enclose a letter confirming insurance cover, including the names of all

covered)

☐ ☐ No

☐ ☐ N/A

9.2 Are all of the investigators/researchers either employees or students of the University of Westminster?

☐ ☐ Yes

☐ ☐ No

If no, please provide evidence of insurance cover, including:

- list of all people involved in the investigation
- details of the form this cover will take

9.3 Does the investigation involve the use of equipment or non-food substances?

☐ ☐ Yes

☐ ☐ No

If yes, please give details of *manufacturer's indemnity*:

9.4 Does the investigation involve the use of equipment or non-food substances which are manufactured on site but are not covered by insurance?

☐ ☐ Yes

☐ ☐ No

If yes, appropriate insurance cover must be arranged and written confirmation of such cover must be attached to this form.

Section 10 – Declarations. *This Section should be read carefully and must be completed by all applicants*

All students must ensure that the supervisor signs the declaration at Section 10.3

All staff must ensure that their Dean of School, or School Research Director (or nominee), as appropriate, signs the declaration at Section 10.3

10.1 Data Protection Act and Freedom of Information Act

I understand that

- the information provided on this form is subject to the Data Protection Act 1998 and the Freedom of Information Act 2000.
- this form may be disclosed as a result of a Data Protection Act Subject Access Request

- this form may be disclosed as a result of a request for information under the Freedom of Information Act 2000.
- I must ensure that any subjects selected for study are made aware of their rights and our obligations under the Data Protection Act 1998.
- I must ensure that sponsors are made aware that the University of Westminster is subject to the Freedom of Information Act 2000.

10.2 Applicant declaration

The information I have given on this form is true and to the best of my knowledge correct:

Name of Applicant

Signature

Date

It is the responsibility of the Principal Investigator/researcher to refer to the University of Westminster '*Code of Practice Governing the Ethical Conduct Research*' and to consult their Supervisor/Dean of School/ School Research Director

10.3 Supervisor/Dean of School/ School Research Director (or nominee) declaration

In accordance with the University's **Code of Practice Governing the Ethical Conduct of Research**, I agree that

(a) the applicant named in 1.2 and 10.2 above should submit their proposal to the University Research Ethics Committee (UREC) for consideration

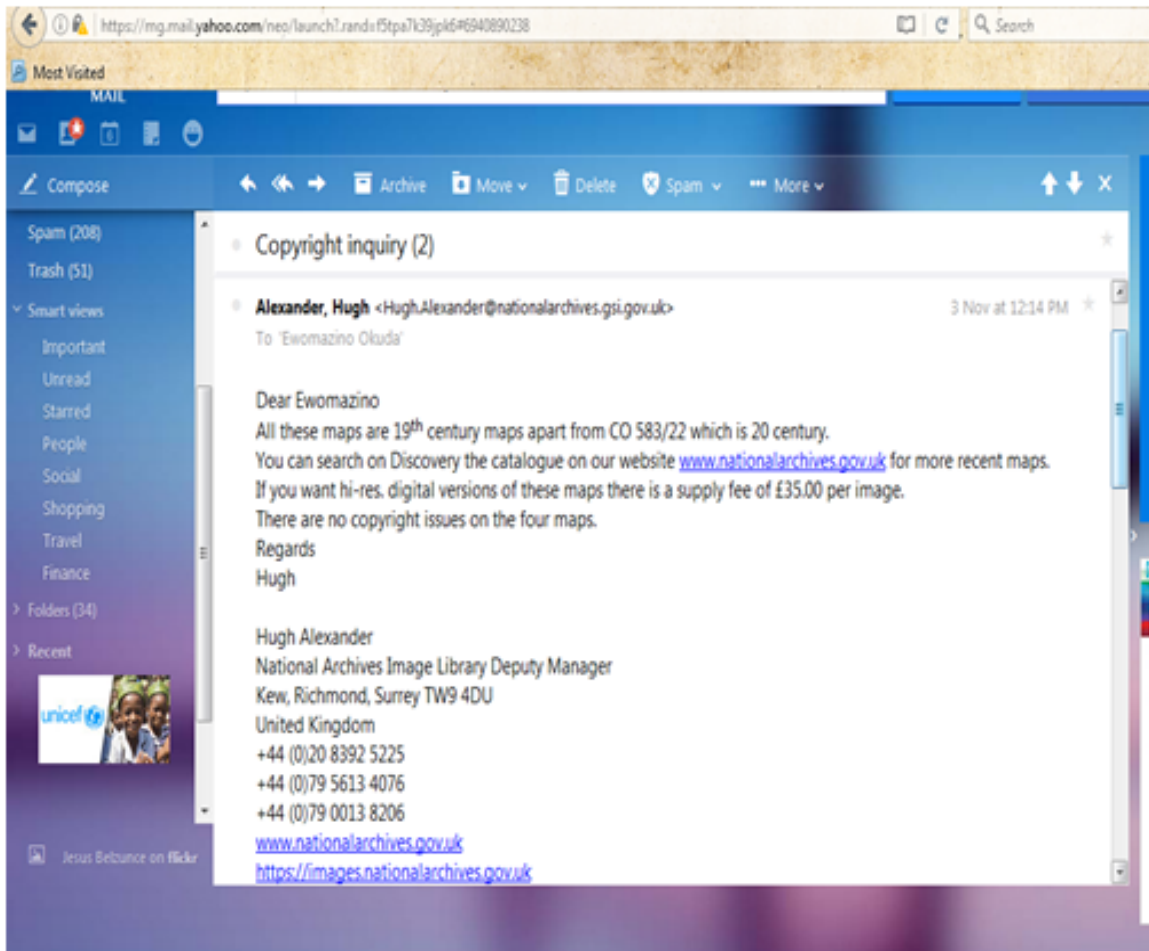
(b) The information given on this form is true and to the best of my knowledge correct:

Name of Supervisor/Dean of School/
School Research Director

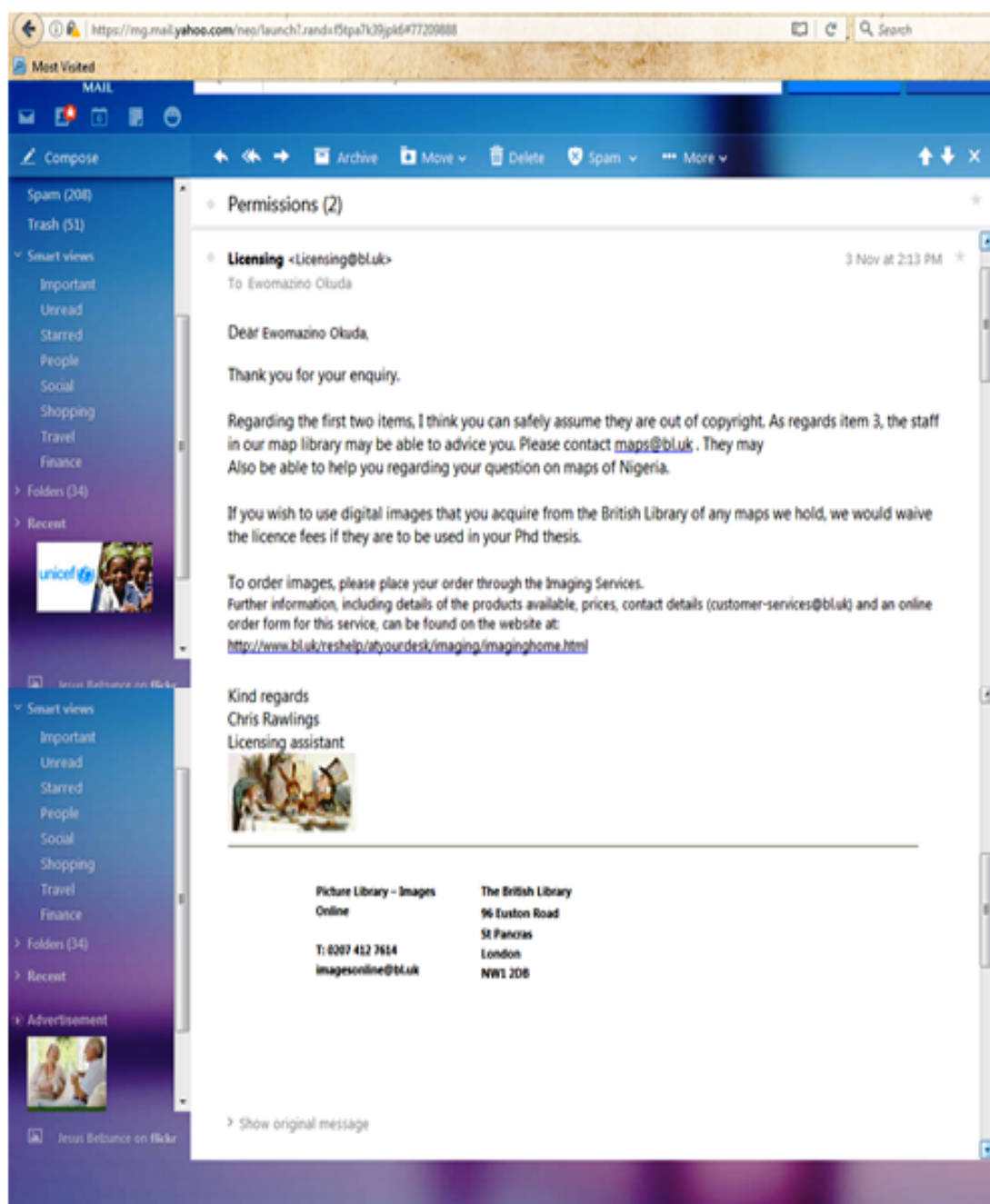
Signature

Date

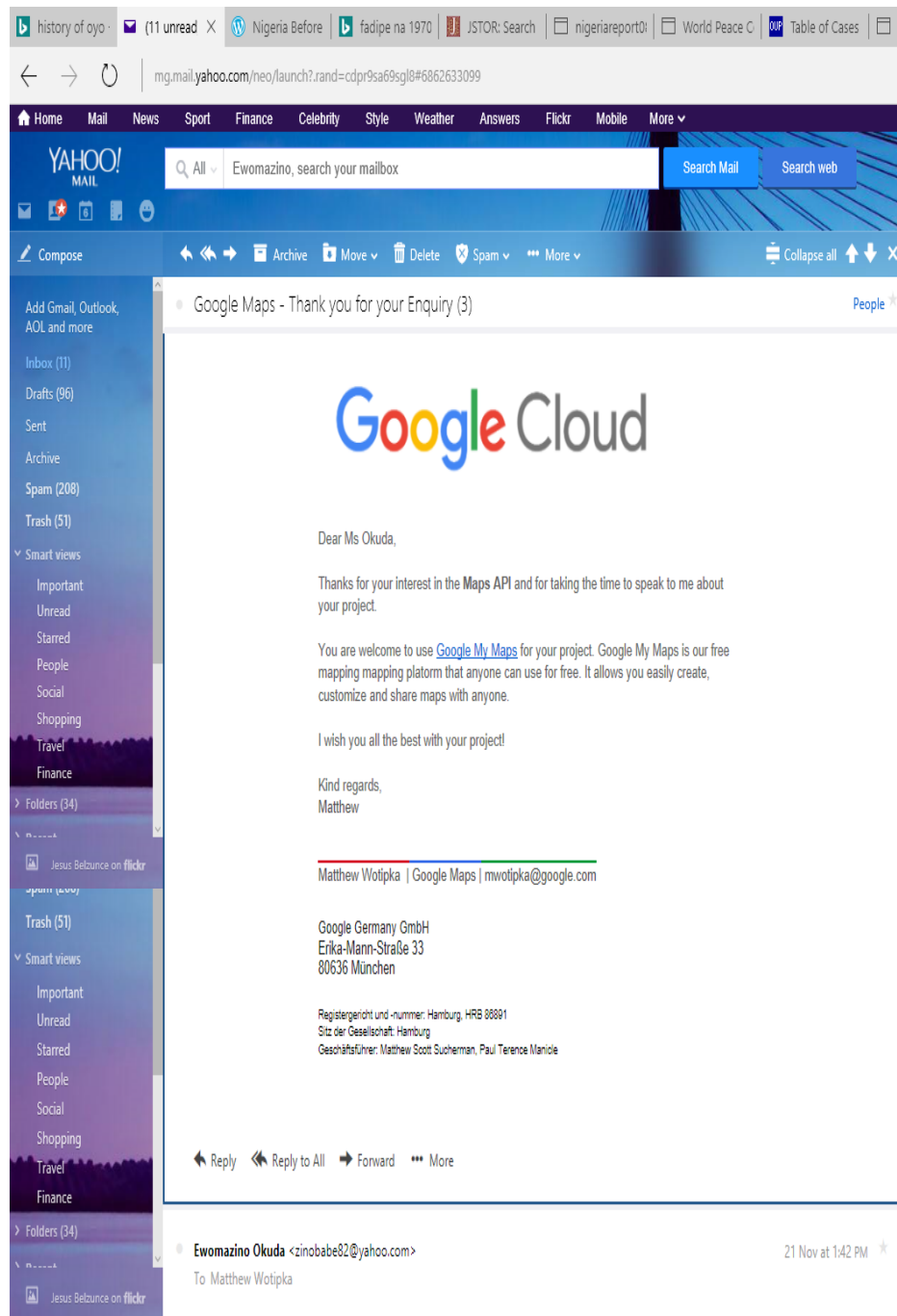
APPENDIX 3- EMAIL FROM NATIONAL ARCHIVE PERMITTING THE USE OF MAPS AND FIGURES



APPENDIX 4-BRITISH LIBRARY PERMISSION FOR THE USE OF MAPS



APPENDIX 5-EMAILS CONSENTING TO THE USE OF GOOGLE MY MAP



APPENDIX 6 -INTERVIEW QUESTIONS GUIDE

Introduction: My name is, I am a University Student, studying how to resolve troubles peacefully. I am 33 years old and a native of this Country. I will first read to you the purpose of this interview and if you agree you will sign this form saying you want to do the interview

A. Introductory Questions/Settling Questions

1. What do you do for a living?
2. How long have you been living in this community, have you always lived here?
3. What is your educational background?
4. Do you like living here or find problems living here?
5. How would you describe the various people living in this community, are they mixed?

B. Structure of the Community

6. How are the people in this community organized? Tribes, Clans, Wards, Villages?
7. How many clans/villages are in this community?
8. Are there the same chiefs for both communities?
9. What are the religious practices in this community?
10. Do both communities take part in the same religious ceremonies?
11. What language is spoken in this community?
12. Does the Ife-Modakeke have the same language?
13. Is the Ife mixed with the Modakeke? If yes, how did the mixing come about?
14. Would you say that the Ife and the Modakeke are the same people?

C. History of the Community

15. Can you please tell me the history of this community before the white man came? Did the community have their own traditional rulers?

16. Did the community have traditional rulers and did the traditional rulers have powers during the colonial times?
17. What about today, do you have traditional rulers? Do they have powers?

D. Personal Dispute Behaviour

18. How often would you say that you have troubles with people living close to you?
19. Please describe how troubles are normally settled traditionally?
20. Have you tried other methods of settlement outside tradition? Such as using the courts?
21. Do you seek legal advice? How do you view court settlement?

E. Past Community Dispute Resolution Behaviour

1. Are you aware of troubles between clans in this community or between this community and another community?
2. How often would you say there are troubles between this village and others?
3. How does the trouble start?
4. Who participates in the fighting? Is it the young men, older men, chiefs? What about the women?
5. When there is trouble between villages are the villagers allowed to engage in trying to settle the trouble?
6. Do the clans honour traditional settlements?
7. What is done if one party or both does not honour the settlement?
8. How do you view the traditional method of settling troubles?
9. Does the government intervene to resolve the troubles?

F. Structure of the Conflict

1. What would you say is the cause of the fighting?
2. Who orders the fighting?
3. What weapons do they use to fight?
4. How do they get the weapons?
5. Who participates in the fighting?
6. Do outsiders participate in the fighting?
7. How the fighting was contained, or stopped?
8. Are there periods of peace and fight or continuous fighting?

G. Present Community Dispute Resolution Behaviour

a) Relationship between the State and the tribes

1. How do you understand the relationship between this village and the government of Nigeria?
2. Did you feel in any way that this village continued to rule itself after independence?

b) Dispute Resolution methods: State vs Tribes

1. Would you describe the government method of resolution as the same with the tradition?
2. Would you recommend the government method of resolving conflicts?
3. If you had the opportunity to do so, what method of resolving conflicts would you advice?

H. Effects of the conflicts and Resolution Methods

1. Would you say that the troubles between the two communities have been resolved permanently?
2. What is the effect of the conflict in your community?
3. Was traditional method of resolution successful in resolving the conflict?
4. Was government intervention successful in resolving the conflict?

Additional Questions for participants who served in Committees for dispute resolution

1. Q: Have you taken part in resolving the conflict?
2. Q: When did you serve in the committee?
3. How where the members of the committee selected?
4. Why did you decide to serve?
5. Please describe the process of resolution employed?
6. Was the method used by the committee traditional method?
7. What was the success of the method used by the committee?

APPENDIX 7- PARTICIPATION INFORMATION SHEET

The Research Study: STATE INTERVENTION IN ETHNIC CONFLICT RESOLUTION IN NIGERIA: AN ANTHROPO-SOCIO-LEGAL ANALYSIS OF ETHNIC CONFLICT RESOLUTION.

To: Potential Interview Participant

From: Okuda Ewomazino Oghenerobo

Subject: Informed Consent to Participate in Study

Date: _____

Dear: _____

My name is Okuda Ewomazino Oghenerobo, I am a student studying how to settle troubles between village clans and neighbouring villages. I am inviting you to take part in my research study. I will be asking you some questions that relate to how troubles between two clans in your village are settled and how trouble between your village and another village is settled. These questions will be broken down into smaller ones to help you to give answers during the interview.

Your answers will help me and other students to understand and advise on how trouble in villages can be settled without fighting. This advice might help you and your village to manage and settle troubles in the community peacefully.

The whole interview with you will take about thirty minutes to one hour. When you and I talk, our spoken words will be recorded and I may write some down on paper so that I will not forget. If you want to hear your answers, I will play the tape for you to listen to them. To make sure that nobody else hears your answers, I will keep the tape in a locked cupboard that only I will have the key to. And when I write your answers in my book, I will not write your name. So nobody else will know that you are the one that gave those answers. Some of the answers you give may be included in another book, a published book that will contain my advice on how to settle troubles peacefully. However, I will never write your name or describe you in the book. If, I need to use your answers for another, later study, I will ask for your permission again.

Please note:

- You do not have to take part in this study. You can choose not to be interviewed.
- You can withdraw from the interview process at any time before, during or after the interview by telling the interviewer in person or by telephone that you no longer want to continue.
- You can also inform your village head that you do not wish to continue and he will inform me.
- You can ask for all or any of your answers to be withdrawn as long as this is practical, and for your personal information to be destroyed.
- You do not have to answer particular questions during the interview if you do not wish to.
- The answers that you give during the interview will not be told to anyone.
- This information sheet and the consent below containing your name will be kept in a locked cupboard on University premises so that your answers are safe.
- If you want to contact me before or after the interview to say that you no longer want to be interviewed or that you want to withdraw your answer or answers, please call me (or ask someone to call me) on this number (+447538185717) or email me on (okuda.ewomazino@yahoo.co.uk).
- An interpreter will be provided if you need one.

If you are sure that you understand everything I have written in this form, and you understand what you are being asked to do, please sign below to show that you understand. Then if you want to take part in the study please sign the consent form too.

Thank You.

Your signature Above (Thumb Print)

If you have further questions about this study you can contact Dr. Kim Van der Borcht by email on k.vanderborcht@westminster.ac.uk

Sincerely,

Okuda Ewomazino Oghenerobo

CONSENT FORM

The Research Study: STATE INTERVENTION IN ETHNIC CONFLICT RESOLUTION IN NIGERIA: AN ANTHROPO-SOCIO-LEGAL ANALYSIS OF CONFLICT RESOLUTION

To : Okuda Ewomazino Oghenerobo

I have read, or have had read to me the Participation Information Sheet (above) for the research study, and I am willing to act as a participant in the study.

Name: _____

Signature: _____ **Date:** _____

This Consent form and the Participant Information Sheet will be stored separately from any data you provide so that your responses will not be known by anyone else.

I have provided an appropriate explanation of the study to the participant

Researcher Signature _____

INTELLECTUAL PROPERTY ASSIGNMENT

Date: _____

I hereby grant Okuda Ewomazino Oghenerobo permission to provide evidence from interviews and questionnaires derived from audio and/or video recording and transcription on ethnic conflict resolution for the purpose of advancing knowledge on ways of resolving ethnic conflicts in Nigeria.

I understand that my response to questions in this interview is for educational purposes only and I will not be paid in any manner for this interview or the use of the interview for educational purposes.

The knowledge contained in the interviews conducted will not be given to any non-project staff except in cases where it is useful for protection and preservation purposes. When this material becomes available, it may be read, quoted, or cited from and disseminated for educational and scholarly purposes only. No name for identification will be included.

NOW THEREFORE, I hereby agree to assign and transfer unto Ewomazino Okuda, all my right in every manner or form, title and interest in this interview. I grant to Ewomazino Okuda a royalty-free, exclusive, irrevocable, perpetual, world-wide license to read, quoted, cite, reproduce this interview for the purpose of her research.

I have read the information in the Participation Information Sheet, and I am willing to act as a participant in the above research study.

Signature of Interviewee(Thumb Print)

Name

I confirm that the interpretation have been done accurately.

Signature of Interpreter

Name

I have provided an appropriate explanation of the study to the participant

Signature of interviewer

Name

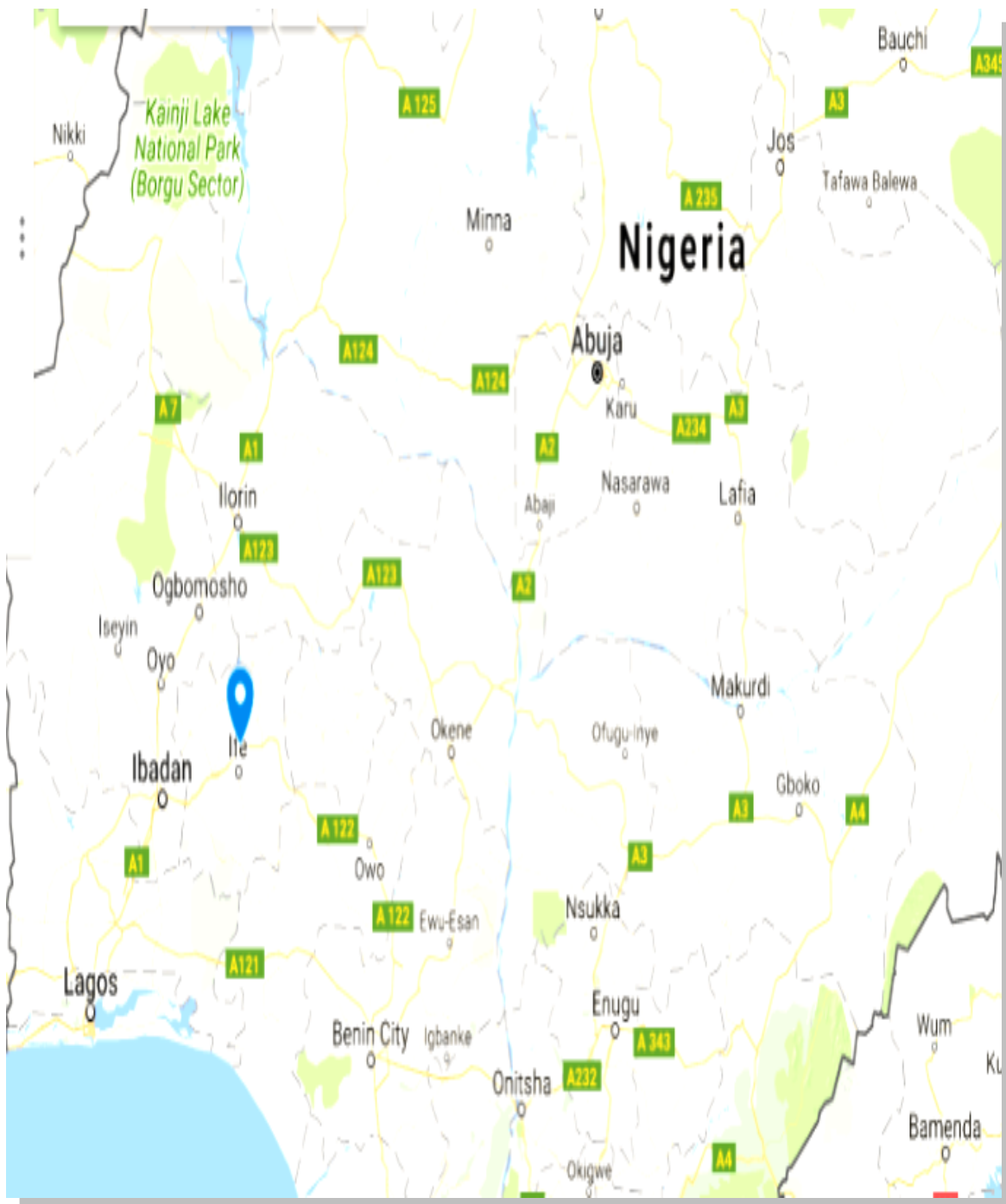
APPENDIX 8 -ENLARGED MAPS 1



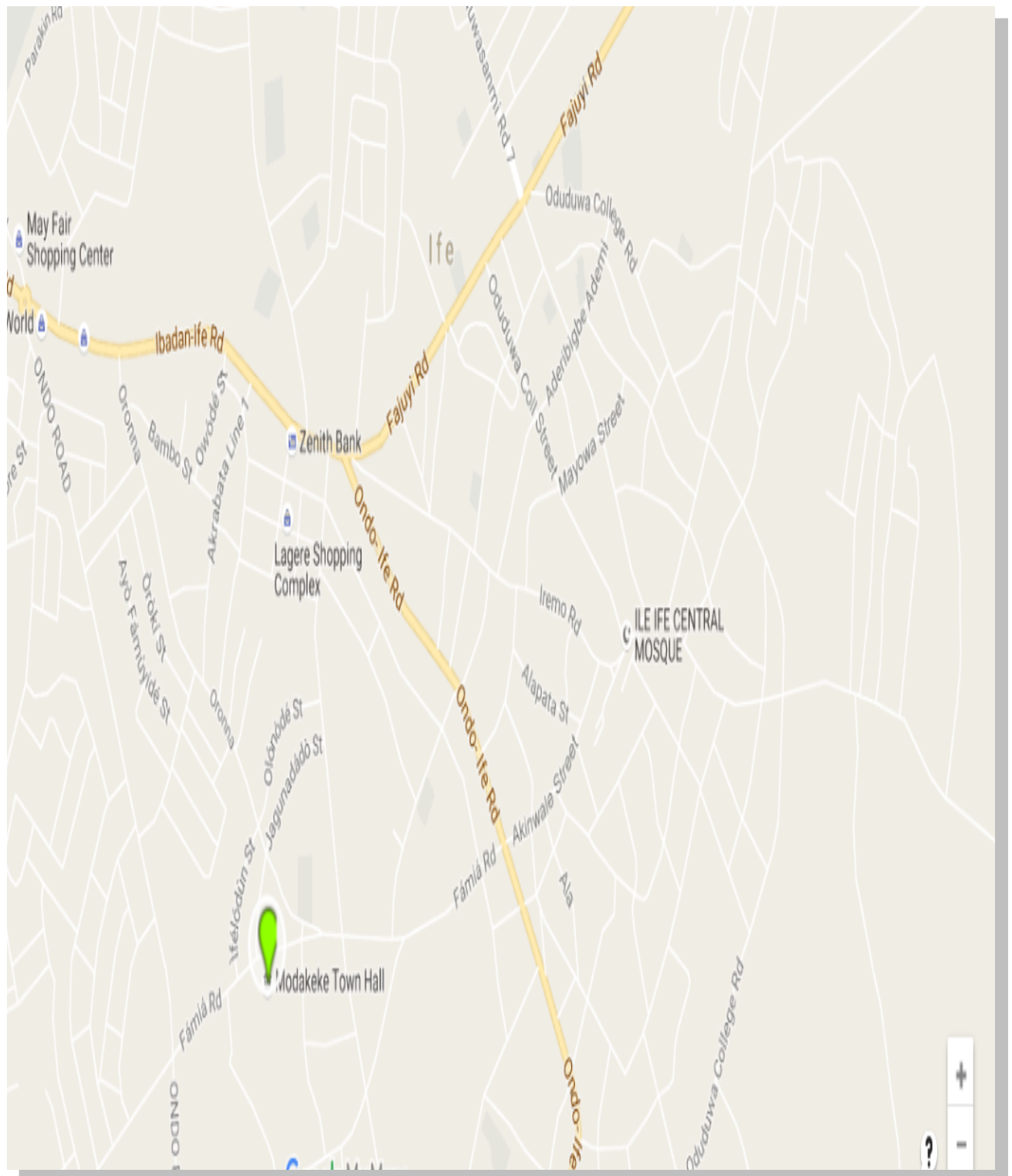
Enlarged Map 2



Enlarged Map 3



Enlarged Map 4



APPENDIX 9-TABLE OF LEGISLATION

Federal Republic of Nigeria 1976 Guidelines on the 1976 Local Government Reforms. Government Printer, Nigeria.

Land Use Act, 1978 Chapter 202, Laws of the Federation of Nigeria, 1990.

<http://www.NigeriaLaw.Org/Land%20use%20Act.Htm>

Ordinance for the appointment and deposition of chiefs 1930 amended by No. 20 1945 Laws of Nigeria containing Ordinance of Nigeria enacted on or before 1948. Cap. 12. C.S.C 504/7/922 British Library London

Supreme Court Ordinance, 1945 Chap 211 Laws of the Federation of Nigeria Containing Ordinances of Nigeria Vol vi chapter 202-236.

The 1979 Constitution of Nigeria online at <http://www.lawnigeria.com/CONSTITUTIONHUB/Constitution/1979ConstitutionofNigeria.html>

The Constitution of the Federal Republic of Nigeria, 1963. http://www.worldstatemen.org/nigeria_Constituion1960.pdf

The Constitution of the Federal Republic of Nigeria, 1999 Cap. C.23 Laws of the Federation of Nigeria 2004. Government Printer Lagos

The Criminal Code Act Chapter 77 Laws of the Federation of Nigeria, 1990. Government Printer, Lagos

The Nigeria (Constitution) Order in Council, 1954. Nigeria Printing Press and Publishing Lagos

The Nigerian (Constitution) Order-in-Council, 1960. CO 554/2199. National Archive London

The Nigerian Independence Act, 1960 Chapter 55. 29th July, 1960 Available Online at http://www.Legislation.Gov.Uk/Ukpga/1960/55/Pdfs/Ukpga_19600055_En.Pdf

The Nigerian Treaties (Making Procedure, ETC) Decree No. 16, 1993 Act. Cap. T 20, Laws of the Federation of Nigeria (LFN) 2004. Government Printer, Lagos

APPENDIX 10-TABLE OF CASES

Abacha v Fawehinmi (2000) 6 Nigeria Weekly Law Report Part 600. P 288

Adebiyi Olafisoye v Federal Republic of Nigeria (2004) 4 Nigeria Weekly Law Reports, Part 864, 580, LPELR Suit NO, 316/2001

Adeleke v Adewusi (1961) 1 All Nigeria Law Report 37,

Aminu Raji v Jimoh Oladimeji and Oseni Aremu (2014) Court of Appeal/1203/2008(2014)

Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v Uganda 2005) International Court of Justice Report.

Asani Taiwo & others V Adamo Akinwunmi & others (1975) 4 Supreme Court Reports. 143

Attorney General of Lagos State v The Attorney-General of the Federation (2004) Supreme Court. 70/2004. Judgement Delivered by Muhammadu Lawal Uwais CJN.

Burkina Faso v Republic of Mali (1986) International Court of Justice Reports, p. 554-567.

Charlie King Amachree v Daniel Kallio (1913) 2 Nigeria Law Report.

Chief Alhaji K.S.O Akanmu v Raji Ipaye & others (1990)3 Nigeria Law Reports 30

Chief Braide v Chief Kalio (1927) Nigeria Law Report. 34

Chief Ojeme & other v Alhaji Momdu 11 & others (1983) Nigeria Law Reports. 188

Chief Uwani v Akom & others (1928) 8 Nigeria Law Report.

Corfu Channel Case (United Kingdom of Great Britain and Northern Ireland v Albania) (1949) International Court of Justice Reports. 53

Elegushi v Oseni (2005) 14 Nigeria Weekly Law Report Part 945

Emmanuel Anizaku & 33 others v The Governor of Nassarawa State & 2 others (2006) All Federation Weekly Law Report. Pt 303.

Gunme & others v Nigeria (2002) Suit No. FHC/ABJ/CS/30/2002

Ife Overlords v Modakekes (1948) The Daily Service, Wednesday December 22

Island of Palmas case (United States v Netherlands) (1928) Reports of International Arbitral Awards. Vol. II. p. 829-871

Katangese People's Congress v Zaire. Case No 75/92, 8th Annual Activity Report 1994-1995(ACHR/RP/8th)

Kevin Mgwanga Gunme v Cameroon (2009) Communication No.266/2003. African Commission on Human and Peoples' Rights Forty-Fifth Ordinary Session 13-27 May 2009.

Military and Paramilitary Activities in and against Nicaragua (Nicaragua v United States of America) 1986. Reports of the International Court of Justice (ICJ) August 1985- July 1986.

Okiji v Adejobi (1960) Supreme Court Nigeria Law Report. 133

The Registered Trustees of National Association of Community Health Practitioners of Nigeria & Orders v Medical and Health Workers Union of Nigeria (2008) 2 Nigeria Weekly Law Report. (NWLR) Part 1075

United States Diplomatic and Consular Staff in Tehran (United States v Iran) (1980) Judgment, I.C.J. Reports. pp. 31–32, paras. 63 and 67

United States v Netherlands (1928) Reports of International Arbitration Awards Island of Palmas Case. 4th April, 1928. Vol. II. p. 829-871.

APPENDIX 11-TABLE OF TREATIES

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APPENDIX 12-TABLE OF ARCHIVAL MATERIALS

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APPENDIX 13: IFE GENERAL CODING All QUESTIONS

Section A: Introduction/Background			
Serial Number	Age	Sex	Education
1	3	M	A
2	3	F	A
5	3	M	B
6	2	F	A
7	1	F	C
8	1	F	C
9	2	M	C
11	2	M	C
13	2	M	A
14	2	M	C
15	2	M	C
17	2	F	A
18	2	F	A
19	2	M	A
20	2	M	C
21	2	M	B
22	2	M	A
23	2	M	C
24	1	M	B
25	2	M	B
26	2	F	A
27	1	F	C
28	2	F	B
29	2	F	A
30	1	M	B
31	2	F	A

32	2	F	C
33	3	F	C
34	1	M	C
35	2	M	B

36	2	F	A
37	3	M	A
38	1	F	B
39	2	F	A
40	2	F	C
41	2	M	A
42	3	F	A
43	2	F	C
44	2	M	A
45	2	M	A
46	2	F	B
47	3	F	A
48	2	F	C
49	3	F	B
50	3	M	B
51	3	M	A
52	2	M	C
53	2	F	A
54	2	F	C
55	3	F	B
TOTAL=50	1=7 2=32 3=11	M=24 F=26	A=20 B=13 C=17

Section B: Structure of the Community									
I/N	How Organised	No. Of Villages	Same Leaders	Religion	Same Religion	Language Spoken	Same Language	Tribe Same	Mixed
1	Villages	N/A	N	N	N	Pure Ife	N	N	Y
2	Town & villages	N/A	N	N	N	Traditional Ife dialect	N	N	Y
5	DK	DK	N	N/A	N/A	Yoruba	N	N	Y
6	N/A	N/A	NA	N/A	N/A	N/A	NA	Y	Y
7	N/A	N/A	NA	N/A	N/A	N/A	NA	N	Y
8	N/A	Many	NA	N/A	N/A	N/A	NA	N	N
9	Community	N/A	NA	N/A	N/A	N/A	NA	N	NA
11	Villages	Many	NA	Idols, Christian	N/A	Ife dialect, Yoruba	N	N	Y
13	N/A	N/A	N	N/A	N/A	N/A	NA	NA	NA
14	Villages	1000	NA	N/A	N/A	Yoruba	N	Y	Y
15	N/A	1000	NA	N/A	N/A	Yoruba	N	N	Y
17	N/A	N/A	NA	N/A	N/A	N/A	NA	Y	Y
18	N/A	N/A	N	N/A	N/A	N/A	N	N	Y
19	Small villages	N/A	N	N/A	N/A	N/A	N/A	N/A	NA
20	N/A	N/A	N	N/A	N/A	N/A	N/A	N	Y
21	N/A	N/A	NA	N/A	N/A	N/A	NA	Y	Y
22	Villages	100	N	Tradition Christian	N	N/A	Y	N	Y
23	Villages	NS	N	Tradition Muslim	N	Yoruba	N	N	Y
24	Villages	100's	N	ChristianIslam, Tradition	N	Yoruba	N	N	Y

25	Villages	DK	N	ChristianIslam Tradition	S	Yoruba	N	N	Y
26	Villages	50	N	Christian Islam	N	Pure Ife	N	N	Y
27	Villages	DK	N	Christian Muslim	N/A	Yoruba	N	N	Y
28	Villages	150	N	TraditionMuslim,	N	Yoruba	N	N	Y

Section B: Structure of the Community									
I/N	How Organised	No. Of Villages	Same Leaders	Religion	Same Religion	Language Spoken	Same Language	Tribe Same	Mixed
				Christian					
29	Villages	Many	N	Chris, Muslim	N	Pure Yoruba	N	N	N
30	Villages	50	N	Chris,Muslim	S	Yoruba	N	N	Y
31	Villages	Many	N	Chris,Muslim	S	Original Yoruba	N	N	Y
32	Villages	Many	N	Chris,,Islam	N	Yoruba	N	N	Y
33	Villages	DK	N	Chris,Muslim	N	True Yoruba	N	N	Y
34	Villages	10-20	N	Chris,,,Muslim, Trad.	N	Yoruba	N	N	Y
35	Town, Villages	Many	N	Christian	N	Yoruba	Y	N	Y
36	Clans, Village	DK	N	Chris,,Trad.	N	Yoruba	N	N	Y
37	Villages	Many	N	Christian	N	Yoruba	N	N	Y
38	Villages	DK	N	Christian	Y	Yoruba	Y	N	Y
39	Clans, Villages	DK	N	Chris,Muslim	N	Yoruba	N	N	Y
40	Town, villages	DK	N	Chris,,Muslim	N	Yoruba	Y	N	Y

41	Town, villages	20	N	Chris, Tradition	N	Yoruba	N	N	Y
42	Clans, villages	Plenty	N	Chris,Muslim	N	Yoruba	Y	N	Y
43	Clans, villages	20	N	Christian	N	Yoruba	Y	N	Y
44	Villages	DK	N	Christian	N	Yoruba	N	N	Y
45	Town, villages	10	N	Chris,Muslim,Trad.	N	Yoruba	Y	N	Y
46	Villages	30	N	Chris,Muslim	N	Yoruba	N	N	Y
47	Town Villages	Many	N	Chris,Muslim, Tradition	N	Yoruba	N	N	Y
48	Town, Villages	DK	N	Chris,Muslim	N	Yoruba	Y	N	Y
49	Town farming villages	20	N	Chris,Muslim, tradition	N	Yoruba	Y	N	Y
50	Clans, villages,	Many	N	Chris, Muslim	N	Yoruba	N	N	Y
51	Clans, villages	DK	N	Chris,Muslim, Tradition	N	Yoruba	Y	N	Y
52	Groups	5	N	Chris,Muslim	N	Yoruba	N	N	Y
53	Town, Villages	14	N	Chris,Muslim	N	Yoruba	Y	N	Y
Section B: Structure of the Community									
I/N	How Organised	No. Of Villages	Same Leaders	Religion	Same Religion	Language Spoken	Same Language	Tribe Same	Mixed
54	Wards, clans, villages	20	N	Chris,Muslim, juju	N	Yoruba	N	N	Y

55	Wards, villages	Many	N	Chris,Muslim,	N	Yoruba	N	N	Y
Total=50	V=23 T=9 CM=6 W=2 DK=1 N/A=9	N/A=10 DK=1 M=10	Y=0 N=41 NA=9		Y=1 N=32 S=3 N/A=15	Yoruba=38 N/A=12	Y=11 N=31 NA=8	Y=4 N=45 NA=1	Y=45 N=2 NA=3

Section C: History of Autonomy			
I/N	Pre-colonial Traditional Rulers	Colonial Traditional Rulers	Post-Colonial Traditional Rulers
1	Y	N	N
2	Y	Y	Y
5	NA	NA	NA
6	NA	NA	NA
7	DK	DK	DK
8	Y	NA	Y
9	NA	NA	NA
11	Y	Y	Y
13	Y	NA	NA
14	Y	NA	N
15	Y	NA	NA
17	Y	NA	NA
18	Y	N	Y
19	N/A	NA	NA
20	Y	Y	Y
21	Y	NA	N

Section C: History of Autonomy			
I/N	Pre-colonial Traditional Rulers	Colonial Traditional Rulers	Post-Colonial Traditional Rulers
22	Y	N	Y
23	Y	D K	Y
24	Y	N	R
25	Y	N	R
26	Y	N	Y
27	Y	N	R
28	Y	Y	Y
29	Y	N	Y
30	Y	N	R
31	Y	N	R
32	Y	N	R
33	Y	N	Y
34	Y	N	R
35	Y	N	R
36	Y	N	Y
37	Y	N	Y
38	Y	N	R
39	Y	N	Y
40	Y	N	N
41	Y	N	R
42	Y	N	Y
43	Y	N	Y
44	Y	Y	N
45	Y	Y	Y
46	Y	N	R
47	Y	N	R
48	Y	N	R
49	Y	N	Y

50	Y	N	N
51	Y	Y	R
52	Y	N	N
53	Y	N	N
Section C: History of Autonomy			
I/N	Pre-colonial Traditional Rulers	Colonial Traditional Rulers	Post-Colonial Traditional Rulers
54	Y	N	N
55	Y	N	Y
Total=50	Y=45 N=0 DK=1 NA=4	Y=7 N=31 DK=2 NA=10	Y=22 N=8 R=13 DK=1 NA=6

Section D: Personal Dispute Behaviour				
I/N	Frequency Troubles	How troubles resolved traditionally	Tried Courts	View of court
1	N/A	Chiefs in palace	Y	Positive
2	N/A	Chiefs Palace	Y	N/A
5	N/A	N/A	NA	N/A
6	N/A	Elders	Y	N/A
7	N/A	N/A	Y	N/A
8	N/A	Palace King	Y	Positive
9	N/A	N/A	NA	N/A
11	N/A	Compound , Oba	NA	N/A
13	N/A	N/A	Y	Positive
14	N/A	N/A	Y	N/A
15	N/A	Traditional Council	NA	N/A
17	N/A	King	N	Negative
18	We are peaceful people	King	N	N/A
19	N/A	Chiefs, king	N/A	N/A
20	N/A	Chief, king	Y	No fair Judgement
21	N/A	Chiefs	Y	Positive
22	Not Often	Chiefs	Y	Good
23	None	Palace	Y	N/A
24	Never	Chief	Y	Good
25	Never	Palace	N	Negative
26	No problems	Palace chiefs	N	Positive prefer Tradition
27	Hardly	Elders, Palace	N	N/A
28	None	Chiefs	N	Negative
29	Sometimes	Elders	N	Negative
30	None	Palace	N	Negative
31	Never	Palace	N	Negative

32	Sometimes	Palace	N	Positive
33	None	Palace	N	Negative
34	Never	Elders	N	N/A
35	Not often	Elders	N	Positive
36	None	Palace	N	Negative
37	None	Palace	N	Positive
38	None	Palace	N	Positive
39	None	Palace	N	Negative
40	None	Elders	Y	Positive
41	None	Palace, Elders	N	Negative
42	None	Palace	Y	Negative Expensive
43	Not Often	Elders, Ooni	Y	Negative
44	Never	Palace	N	Negative
45	None	Elders in the Family	Y	Positive
46	None	Elders	Y	Good
47	None	Elders	N	Negative
48	Sometimes	Elders, War	Y	Positive
49	None	Palace	N	Positive
50	Never	Palace	Y	Negative
51	None	Ooni's court	Y	Positive
52	Sometimes	Chiefs	Y	Negative
53	Sometimes	Chiefs	N	Negative
54	None	Family heads	N	Positive
55	All the time	Heads of family	Y	Positive
Total=50	Always=0 Never=0 None=30 Sometimes=5 N/A=15	Chiefs Elders Palace	Y=22 N=26 NA=2	P=18 N=20 R=0 N/A=12

Section E: Past Community Dispute Behaviour									
I/N	Trouble Awareness	Trouble Frequency	How Trouble Start	Participant of fighting	Community Settlement	Honour traditional resolution	Don't honour what happens	View of Traditional Resolution	Government Intervened
1	Y	N/A	Throwing stones	N/A	Y	N	N/A	No force	Y
2	Y	N/A	N/A	N/A	Y	Y	N/A	Positive	Y
5	Y	N/A	N/A	N/A	N/A	N	N/A	N/A	Y
6	Y	N/A	N/A	N/A	N/A	Y	Talk them to stop	N/A	Y
7	Y	N/A	N/A	Everybody	Y	Y	N/A	N/A	Y
8	Y	N/A	N/A			Y			Y
9	N/A	N/A	N/A	N/A	N/A	N	N/A	N/A	Y
11	Y	N/A	N/A	N/A	Y	Y	Outcast	N/A	Y
13	Y	N/A	N/A	N/A	Y	Y	Govt. intervene	Respect it	NA
14	Y	N/A	N/A	Everybody	Y	Y	Law courts	N/A	Y
15	Y	N/A	N/A	Youths	Y	NA	Conflict, War	N/A	N
17	Y	N/A	N/A	N/A	Y	Y	N/A	Positive	N
18	Y	N/A	N/A	Youths	N/A	Y	Go and settle	N/A	Y
19	Y	N/A	N/A	Everybody	Y	Y	No choice must try to settle	Positive	Y
20	Y	N/A	N/A	Youths	Y	Y	N/A	Positive	Y
21						Y			Y

22	Y	Not Often	Land issues and ishakole	DK	Y	Y	Y	Positive	Y
23	Y	Not often	DK	Youths	Y	DK	High Court	Positive	Y
24	Y	No recent one	DK	Young ones	Y	Y	Try again	Positive	Y
25	Y	Often	Land	Everyone	Y	Y	War	Positive	Y
26	Y	Only with Modakeke	Modakee Dues	Anyone of fighting age	Y	Y	War	Positive	Y
27	Y	No troubles	DK	Young ones	Y	Y	Go to State	N/A	Y

Section E: Past Community Dispute Behaviour									
I/N	Trouble Awareness	Trouble Frequency	How Trouble Start	Participant of fighting	Community Settlement	Honour traditional resolution	Don't honour what happens	View of Traditional Resolution	Government Intervened
							Court		
28	Y	Not often	Land	Everyone	Y	Y	Punishment from King	Good	Y
29	Y	None	Land, Ishakole	Everybody	Y	Y	Court	Good	Y
30	Y	No troubles now	Land	Youths	Y	N	Leave village in shame	Good	Y
31	Y	N/A	Ishakole	Youths	Y	Y	Banished	Important	Y
32	Y	N/A	DK	Young men and women	Y	Y	Court	Ok	Y
33	Y	Not often	DK	Young People	Y	Y	They Have to	Good	N
34	Y	Sometimes	Land	All	Y	Y	Court High Court	Good	Y

35	Y	Sometimes	Local Govt. and Ishakole	Young men	Y	Y	Court	Good	Y
36	Y	All the time	Land	Young men	Y	Y	Court	I like it	Y
37	Y	Sometimes	Land	Those who can fight	Y	Y	No Choice must listen	Part of our tradition	Y
38	Y	Sometimes	Local Govt.	Young people	Y	Y	Court	Good	Y
39	Y	Not often	Land and local govt.	Young People	Y	Y	Court	Very Good	Y
40	Y	Sometimes	Local Govt.	Young men and women	Y	Y.	Court	I prefer court	Y
41	Y	No troubles	Land, Ishakole Local govt.	Everyone	Y	Y	Court	Good	Y
42	Y	Sometimes	Land	Youth	Y	N	Court	Good	Y
43	Y	Often	Land and election	Youths	Y	Y	Court	Good	Y
44	Y	Sometimes	Land and	Young people	Y	Y	Court	Good	Y

Section E: Past Community Dispute Behaviour

I/N	Trouble Awareness	Trouble Frequency	How Trouble Start	Participant of fighting	Community Settlement	Honour traditional resolution	Don't honour what happens	View of Traditional Resolution	Government Intervened
			election						
45	Y	Always	Land and election	Youths	Y	Y	Court	Very Good	Y

46	Y	Sometimes	Local govt.	Everybody	Y	N	Fines	Better	Y
47	Y	Some troubles	Land and Ishakole	Young people	Y	Y	Abuse trades them no with	Important	Y
48	Y	Always	Land and local govt.	Youths	Y	N	Court	Good	Y
49	Y	Many	Land and local govt.	Young	Y	Y	Court	Very good	Y
50	Y	Often	Land and Ishakole	Mena and youths	Y	Y	Court	Very important	Y
51	N	Some troubles	Ishakole	Young men	Y	Y	Court	Very good	Y
52	Y	Sometimes	Land	Men and youths	Y	Y	Fines	Best	Y
53	Y	Sometimes	Land , Ishakole, Local govt.	Youths	Y	Y	Fines	Best	Y
54	Y	All the time	Local govt.	Everybody	Y	Y	Fine	Best	Y
55	Y	All the time	Local govt.	Everybody	Y	Y	Fine	Best	Y

Tot.=50	Y=48 N=1 N/A=1	Sometime=22 All time=8 Never=4 N/A=16	Local govt. Ishakole Land	Youths=25 Everybody= 16 DK=1 N/A=8	Y=46 N=0 N/A=4	Y=41 N=7 DK=1 N/A=1	Court=19 Banishment=2 Fines=7 No choice=2 Others=13 N/A=7	Positive=41 Negative=0 Good/very good=15 Best=5 Important= 2 Respect it=1 Others=18 N/A=9	Y=46 N=2 N/A=2
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Section F: Structure of the Conflict								
I/N	Causes of conflict	Who Orders conflict	Weapons used	Source of weapons	Who participates in fighting	Others from outside community participate	How violence is stopped	Fighting continuous
1	Ishakole, land	NA	N/A	N/A	N/A	N/A	G	N/A
2	Ishakole	NA	N/A	N/A	N/A	N/A	G	N/A
5	N/A	Don't know	N/A	N/A	N/A	N/A	N/A	N/A
6	N/A	NA	Guns, cutlasses, charms	N/A	N/A	N/A	G	N/A
7	N/A	Don't know	N/A	N/A	N/A	N/A	N/A	N/A
8	Land	Don't know	Guns, cutlass	N/A	Everybody	N/A	G	Y
9	N/A	NA	N/A	N/A	N/A	N/A	N/A	N/A
11	Land	NA	N/A	N/A	N/A	N/A	N/A	N/A

13	N/A	NA	N/A	N/A	N/A	N/A	N/A	N/A
14	N/A	NA	N/A	N/A	N/A	N/A	G	N/A
15	Power tussle, money	NA	N/A	N/A	Youths	Y	G	N/A
17	Land	NA	N/A	N/A	N/A	N/A	King settled it	N/A
18	N/A	NA	N/A	N/A	N/A	N/A	G	N/A
19	Land	DK	Cutlass, dangerous weapons	DK	Everybody	Y	G	N/A
20		NA	Guns, bomb	DK	Youths	N	G	N/A
21		NA						
22	Land and Ishakole	DK	Guns, Cutlass	DK	Everyone	N	G	Y
23	Land	Leaders	Guns, Stones, bow and arrows	DK	Youths	N	G	DK

Section F: Structure of the Conflict								
I/N	Causes of conflict	Who Orders conflict	Weapons used	Source of weapons	Who participates in fighting	Others from outside community participate	How violence is stopped	Fighting continuous
24	Land	King	Guns, bow and arrows	DK	Young ones	N	G	Y

25	Land	King	Guns, machete,	DK	Themselves	N	N	Y
26	N/A	Modakeke	Cutlass, guns, stones	DK	Everybody	N	G	N
27	DK	Rulers	DK	DK	Youths	DK	G	N/A
28	Ishakole	DK	Stones, cutlass	Themselves	Everybody	N	G	Y
29	Land	DK	Guns	DK	Everyone	N	G	Y
30	Land	Leaders	Guns, Cutlass,	DK	Young People	Some	G	Y
31	Ishakole	DK	Guns	Buy them	Youths	No	G	Y
32	Independence	Leaders	DK	DK	Young ones	Y	G	N/A
33	Independence	Rulers	Guns, Cutlass	DK	Everybody	N	People tired of fighting	N/A
34	Land and Election	Leaders	Guns	Already in possession	Youths	N	G	DK
35	Local Govt. Ishakole	DK	Guns	DK	Young people	Y	G	Y
36	Land	DK	Guns, cutlasses	DK	Everybody	Y	G	N
37	Land	DK	Guns	DK	Young ones	N	Realization of effect	N
38	Local Govt.	DK	Guns	DK	Everybody	Y	G	Y
39	Land and local govt.	Leaders	Guns, bombs	DK	Young men	N	G	Y
40	Local Govt.	Don't Know	DK	DK	Young ones	Y	G	N/A

Section F: Structure of the Conflict								
I/N	Causes of conflict	Who Orders conflict	Weapons used	Source of weapons	Who participates in fighting	Others from outside community participate	How violence is stopped	Fighting continuous
41	Land, Local govt.	King of Modakeke	All sorts	DK	Everybody	N	G	Y
42	Land	Don't Know	Guns	DK	All	DK	Communities	Y
43	Land and election	Don't Know	Guns	Black Market	Youths	Y	G	N
44	Land and election	Can't say	Guns Machete	DK	Young men	N	G	Y
45	Land and election	Leaders	Guns	DK	Youths	N	G	Y
46	Local Govt.	Don't Know	Guns	DK	Everybody	DK	G	N
47	Land and Ishakole	Can't say	Guns	DK	Young people	Y	G	Y
48	Land and local govt.	Don't Know	Guns	DK	Young people	N	G	Y
49	Land and local govt.	Leaders	Guns cutlass	Dealers	Young people	Y	G	N
50	Land, ishakole	Leaders	Guns	DK	Men and Youths	N	G	Y
51	Land	Rulers	Guns	DK	Youths	N	G	Y
52	Land****	Can't say	Anything of destruction	Various means	N/A	Y	G	N
53	Land	Hard to say	Guns, Cutlass	DK	N/A	Y	G	N

54	Local govt.	Don't Know	Everything	DK	N/A	Y	G	N
55		Don't Know						
Total=50	Land Local Govt. Ishakole	L=15 DK=22 N/A=13	Guns, Cutlass Bombs	DK=31 Others=6 N/A=13	Youths=22 Everybody=14 N/A=14	Y=13 N=28 DK=3	G=41 Ttradition/comm-	Y=19 N=12 DK=2
Section F: Structure of the Conflict								
I/N	Causes of conflict	Who Orders conflict	Weapons used	Source of weapons	Who participates in fighting	Others from outside community participate	How violence is stopped	Fighting continuous
						N/A=12	unity==4 N/A=5	N/A=17

Section G (1): Present Relationship Between State and Tribes		
I/N	Relationship between community and Nigerian State	Community Continue to rule itself
1	Rulers not involved in politics	N
2	N/A	N/A
5	N/A	N/A
6	N/A	N/A
7	N/A	N/A
8	N/A	N/A
9	N/A	N/A
11	Support	N/A
13	N/A	N/A
14	N/A	N/A
15	N/A	N/A
17	N/A	N/A
18	N/A	N/A
19	N/A	N/A
20	Under government still under Ooni	Y
21	N/A	N/A
22	Listens to Government	Y
23	Government rules but traditional rulers have a say	DK

Section G (1): Present Relationship Between State and Tribes		
I/N	Relationship between community and Nigerian State	Community Continue to rule itself
24	Cordial, Respect each other	N
25	Ok	N
26	Good	Y
27	No Problems	N
28	Tradition works together with Government	Y
29	Fine- Co-operate with government	N
30	Work with government	Y
31	Good	N
32	Positive work together	N
33	Good, everyone plays their part	Y
34	Positive	N
35	Good	N
36	Good	N
37	Co-operate	N
38	Good	N
39	Government can do more to support this community	N
40	No problem	N
41	Okay, government recognise our Ooni	N
42	Okay	N
43	Okay	N
44	Good	N
45	Good, co-operate with government	N
46	Okay we recognise the government now	N
47	Government is head now	N

48	Cordial	N
49	Okay we respect the government	Y
50	Government is king now	N
51	Government ruling town, Ooni villages	Y
52	Government is big guy we respect it	R
53	We co-operate with government but listen to our Ooni	Y
54	We co-operate with government	R
55	We obey government and Ooni	R
Section G (1): Present Relationship Between State and Tribes		
I/N	Relationship between community and Nigerian State	Community Continue to rule itself
Total=50	Co-operate=3 Good=8 Respect=2 Superior=0 N/A=13 Others=24	Y=7 N=26 R=3 DK=1 N/A=13

Section G (2): Traditional Resolution Vs State Resolution			
I/N	Government Method Same as Traditional Resolution	Recommend Government	Preference for Government or Tradition
1	N	N/A	T
2	N	N/A	T
5	NA	N/A	G
6	NA	N/A	NA
7	Y	N/A	NA
8	NA	N/A	G
9	N	N/A	NA
11	N	N/A	NA
13	NA	N/A	NA
14	N	N/A	NA
15	N	N/A	T
17	NA	N/A	T
18	NA	N/A	T
19	NA	N/A	G
20	N	Y	G
21	N	N/A	G
22*	N	Y	T
23	N	N/A	G
24	Y	N/A	G
25	Y	Y	G

Section G (2): Traditional Resolution Vs State Resolution			
I/N	Government Method Same as Traditional Resolution	Recommend Government	Preference for Government or Tradition
26	N	N/A	T
27	S	Y	G
28	N	N	G
29	Y	N/A	T
30	Y	Y	B
31	N	N	T
32	Y	Y	G
33	N	N	T
34	Y	Y	B
35	Y	Y	G
36	N	Y	G
37	Y	N	T
38	Y	Y	G
39	Y	Y	T
40	N	Y	G
41	Y	N	G
42	N	N	T
43	N	Y	T
44	N	N	T
45	N	Y	T

46	N	N	T
47	N	R	T
48	N	N	G
49	N	N	T
50	N	N	T
51	N	N	T
52	N	N	T
53	N	N	T
54	N	N	T
55	N	N	T
Total=50	Y=11	Y=15	T=27
Section G (2): Traditional Resolution Vs State Resolution			
I/N	Government Method Same as Traditional Resolution	Recommend Government	Preference for Government or Tradition
	N=30 S=1 N/A=8	N=16 R=1 N/A=18	G=16 NA=7

Section H: Effect of Conflict				
I/N	Conflict ended	Effect of Conflict	Tradition Resolution successful	Government resolution successful
1	N	Deaths	N	Y
2	Y	Deaths	N	Y
5	Y	Children no school	N	Y
6	Y	No school Markets	N	Y
7	Y	Deaths	N	Y
8	NA	Deaths	N	Y
9	Y	Deaths	N/A	N/A
11	Y	Deaths	N/A	N/A
13	NA	Deaths	N/A	N/A
14	NA	Loss of property, no schooling	N	Y
15	N	Death casualties	Y	N
17	Y	houses burnt people dead	Y	N
18	N	Houses burnt people dead	N/A	N/A
19	N S	Deaths	N	Y
20	NA	Deaths	N	Y
21	N	Deaths	N	Y
22*	Not Sure	Death Loss of properties	N	Y
23	Y	Death	N	Y
24	N	Death	N	Y
25	Y	Death Loss of properties	N	Y
26	Y	Death Loss of properties	N	Y
27	Not Sure	Death Loss of properties	N	Y

Section H: Effect of Conflict				
I/N	Conflict ended	Effect of Conflict	Tradition Resolution successful	Government resolution successful
28	Y	Deaths	Y	Y
29	N	Death	Y	N
30	Not Sure	Death, loss properties	Y	Y/N
31	Y	Death Loss of properties	N	Y
32	Y	Death job loss	N	Y
33	Not Sure	Death families	Y	N
34	Not Sure	Loss of infrastructure	N	Y
35	Y	Loss of lives	N	Y
36	Y	Suffering deaths	N	Y
37	Y	Deaths	Y	Y
38	Y	Death Loss of properties	N	Y
39	Not Sure	Death	N	Y
40	Not Sure	Death	N	Y
41	Not Sure	Deaths	Y	N
42	Y	Suffering deaths	Y	N
43	Y	Deaths	Y	N
44	Y can't tell	Deaths	N	N
45	Y	Deaths	Y	Y
46	Y	Deaths	N	N
47	Y	Deaths	Y	Y
48	N	Deaths	Y	N

49	Y	Deaths	Y	N
50	N	Deaths	Y	N
51	Y	Death Loss of properties	Y	N
52	N	Deaths loss of properties	Y	N
53	N	Deaths	Y	N
54	N	Death children young men	Y	N
55	N	Displaced	Y	Y
Total=50	Y=22 N=12 NS=11 DK=0	Deaths, Loss of properties No Development Disruption of school	Y=20 N=26 R=0 NS=0	Y=30 N=16 R=0 NS=0
Section H: Effect of Conflict				
I/N	Conflict ended	Effect of Conflict	Tradition Resolution successful	Government resolution successful
	N/A=5		N/A=4	N/A=4

Key

1	19-30 years old
2	31-60 years old
3	60 plus
M	Male
F	Female
I/N	Number in interview transcript
A	Uneducated
B	Semi-Educated up to secondary school
C	Higher Education
CM	Community
DK	Don't Know
G	Government
NA	No Answer
M	Many
R	Relative
P	Positive
S	Similar
T	Tradition
V	Villages
W	Wards
Y	Yes

APPENDIX 14: MODAKEKE GENERAL CODING ALL QUESTIONS

Section A: Introduction/Background			
S/N	Age	Sex	Education
1	3	M	A
2	2	M	C
3	2	F	A
4	2	M	A
5	2	M	A
6	3	M	B
7	2	M	C
8	2	M	B
9	2	M	B
10	1	M	C
11	2	F	C
12	1	M	B
13	2	M	B
14	2	F	B
15	3	M	B
16	1	F	B
17	3	F	A
18	2	M	C
19	3	F	C
20	2	M	A
21	3	F	A
22	2	M	B
23	2	M	C
24	2	F	C
25	3	F	C
26	2	M	B

27	2	F	A
28	2	M	C
29	2	F	A
30	2	M	C
31	2	F	B
32	1	M	C
33	2	M	C
34	2	F	C
35	2	F	B
36	1	M	C
37	2	F	B
38	1	F	C
39	2	F	B
40	1	F	C
41	2	F	B
42	2	F	C
Total=42	1=7 2=28 3=7	M=22 F=20	A=10 B=14 C=18

Section B: Structure of the Community									
I/N	How Organised	No. Of Villages	Same Traditional . Leaders	Religious Practices	Same Religious Practices	Language Spoken	Same Language	Tribes Same	Mixed
1	N/A	N/A	N	N/A	N/A	Yoruba	N	N	Y
2	N/A	N/A	N	N/A	N	Yoruba	N	N	Y
3	N/A	N/A	N	N/A	N/A	N/A	N/A	N/A	N/A
4	N/A	N/A	N	N/A	N/A	Real Yoruba	N	NA	Y
5	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	Y
6	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N	N/A
7	N/A	N/A	N	N/A	N/A	Traditional Oyo	Y	N	NA
8	Clans, hamlets	7	N	N/A	N/A	Yoruba	N	N	Y
9	N/A	4	N	Muslims, Christian, Tradition	N/A	N/A	N	N	Y
10	Clans	N/A	N	Christian, Muslim Tradition	Y	N/A	N	N	Y
11	Villages	14	NA	Y	Y	Oyo Yoruba	NA	NA	Y
12	Clans Villages	4	N	Christian Islam	S	Oyo Yoruba	N	N	Y
13	Main Town Villages	Many	N	Christian Islam	Y	Oyo Yoruba	N	N	Y

Section B: Structure of the Community									
I/N	How Organised	No. Of Villages	Same Traditional . Leaders	Religious Practices	Same Religious Practices	Language Spoken	Same Language	Tribes Same	Mixed
14	Clans and Villages	10	N	Christian Islam, Tradition	N	Oyo pure Yoruba	N	N	Y
15	Villages	DK	N	Christian	N/A	Oyo Yoruba	N	N	Y
16	Clans and Villages	Many	N	Christian Tradition	N	Oyo Yoruba	N	N	Y
17	Clans and Villages	DK	N	Tradition Christian Muslim	Y	Oyo Yoruba	N	N	Y
18	Town and Villages	4	N	Tradition, Christian Muslim	N	Yoruba	N	N	Y
19	Town and Villages	4	N	Traditiona l Christian	N	Yoruba	N	N	Y
20	Villages	4	N	Traditiona l Christian	N	Yoruba	N	N	Y
21	Town and Villages	5	N	Christian and Islam	N	Yoruba	N	N	Y
22	City, Town and Villages	5	N	Christian, Muslim, Tradition	N	Typical Oyo Yoruba	N	N	Y
23	Tribes	4	N	Christian, Muslim,	N	Oyo Yoruba	N	N	Y

Section B: Structure of the Community									
I/N	How Organised	No. Of Villages	Same Traditional . Leaders	Religious Practices	Same Religious Practices	Language Spoken	Same Language	Tribes Same	Mixed
24	Town and Villages	4	N	Christians, Muslim	N	Yoruba	N	N	Y
25	Central Villages	15	N	Tradition Christian	N	Oyo Yoruba	N	N	Y
26	Town and Villages	DK	N	Christian, Muslim	S	Oyo Yoruba	N	N	Y
27	Villages	12	N	Christian, Tradition	N	Oyo Yoruba	Y	N	Y
28	Villages	15	N	Christian, Muslim, Tradition	N	Proper Yoruba	N	N	Y
29	Town and Villages	12	N	Christian, Tradition	N	Yoruba	Y	N	Y
30	Town, Villages	14	N	Christian Tradition	N	Yoruba	N	N	Y
31	Tribes	10	N	Christian, Muslim Tradition	N	Oyo Yoruba	N	N	Y
32	Central Modakeke and farming Villages	6	N	Tradition, Christian Muslim	N	Original Oyo	Y	N	Y
33	Town ,Villages	6	N	Muslim, Tradition	N	Oyo Yoruba	N	N	Y

Section B: Structure of the Community									
I/N	How Organised	No. Of Villages	Same Traditional . Leaders	Religious Practices	Same Religious Practices	Language Spoken	Same Language	Tribes Same	Mixed
34	Town, Villages	10	N	Muslim, Christians	N	Yoruba	N	N	Y
35	Town, villages	6	N	Muslim, Tradition	N	Yoruba	N	N	Y
36	City, Town, villages	6	N	Christian, Muslim	N	Oyo	N	N	Y
37	Town, villages	6	N	Christian, Muslim,	N	Oyo Yoruba	N	N	Y
38	City, villages	10	N	Christian, Tradition	N	Oyo	N	N	Y
39	Town and Villages	5	N	Christian, Muslim	S	Oyo	N	N	Y
40	City and villages	4	N	Christian, Muslim, Tradition	N	Yoruba	N	N	Y
41	Central Villages	10	N	Christian, Muslim	N	Oyo	N	N	Y
42	Villages	4	N	Christian, Muslim,	N	Oyo Yoruba	N	N	Y
TOTAL=42	V=5 T=15 C=6 others=8 DK=0 N/A=8		Y=0 N=39 NA=3		Y=4 N=26 S=3 N/A=9	Yoruba Oyo=16 Yoruba=2 2 N/A=4	Y=3 N=35 NA=4	Y=0 N=38 NA=4	Y=39 N=0 NA=3

Section B: Structure of the Community									
I/N	How Organised	No. Of Villages	Same Traditional . Leaders	Religious Practices	Same Religious Practices	Language Spoken	Same Language	Tribes Same	Mixed

Section C: History of Autonomy			
I/N	Pre-colonial Traditional Rulers	Colonial Traditional Rulers	Post-Colonial Traditional Rulers
1	NA	NA	Y
2	NA	NA	NA
3	NA	NA	NA
4	Y	NA	Y
5	Y	N	R
6	Y	N	R
7	Y	NA	R
8	Y	N	R
9	Y	N	R
10	Y	Y	R
11	Y	N	R
12	Y	Y	R
13	Y	Y	R
14	Y	Y	R
15	Y	N	R
16	Y	Y	R
17	Y	N	Y
18	Y	N	R
19	Y	N	R

Section C: History of Autonomy			
I/N	Pre-colonial Traditional Rulers	Colonial Traditional Rulers	Post-Colonial Traditional Rulers
20	Y	N	N
21	Y	N	Y
22	Y	N	N
23	Y	N	R
24	Y	N	R
25	Y	N	N
26	Y	N	N
27	Y	Y	N
28	Y	N	N
29	Y	N	N
30	Y	N	N
31	Y	N	Y
32	Y	N	N
33	Y	N	N
34	Y	N	N
35	Y	N	N
36	Y	N	N
37	Y	N	N
38	Y	N	N
39	Y	N	N
40	Y	N	N
41	Y	N	N
42	Y	N	N
TOTAL=42	Y=39 N=0 DK=0 NA=3	Y=4 N=33 DK=0 NA=5	Y=6 N=18 R=16 DK=0 N/A=2

Section D: Personal Dispute Behaviour				
I/N	Troubles how often	How troubles resolved traditionally	Tried Courts	View of court
1	None	King	N	N/A
2	N/A	Palace	N/A	N/A
3	N/A	Palace	N/A	N/A
4	N/A	Palace	N/A	N/A
5	N/A	Elders	N/A	N/A
6	N/A	N/A	NA	N/A
7	N/A	N/A	N/A	N/A
8	N/A	N/A	N/A	N/A
9	N/A	Palace	N/A	Positive
10	N/A	Chiefs	N/A	Positive
11	None	Palace	Y	Positive
12	None	Palace	Y	Positive
13	Never	Chiefs Palace	N	Negative
14	None	Chiefs, king	Y	Positive
15	None	Older ones palace	N	Positive
16	None	Families, Palace	N	N/A
17	Always	Palace	Y	Positive
18	Sometimes	Older ones ,Palace	N	Negative
19	Sometimes	Elders	N	Negative
20	None	Chief in Palace	N	Positive
21	Sometimes	Elders	Y	Relative Expensive
22	None	Elders, Palace	Y	Positive
23	Never	Chiefs	Y	Negative
24	Sometimes	Palace	N	Negative
25	None	Oldest member of family	N	Negative
26	None	Older members of family	Y	Positive

Section D: Personal Dispute Behaviour				
I/N	Troubles how often	How troubles resolved traditionally	Tried Courts	View of court
27	None	Families, Palace	Y	Relative
28	Many times	Palace	Y	Relative Expensive
29	Never	Older men of family	Y	Negative
30	Sometimes	Elders	N	Negative
31	Never	Elders in the family	N	Negative
32	Sometimes	Families, Palace	N	Positive
33	Sometime	Heads of compounds	Y	Relative
34	Sometimes	Elders, Palace	N	Positive
35	None	Chiefs	Y	Positive
36	None	Elders , chiefs	Y	Positive
37	Sometimes	Elders, Palace	Y	Negative Expensive
38	None	Chief and king	N	Positive
39	None	Elders , Palace	N	Negative
40	None	Chiefs	Y	Positive
41	Sometimes	Palace	N	Positive
42	Sometimes	Elders, Palace	N	Positive
TOTAL=42	Always=1 Never=4 None=16 Sometimes=12 N/A=9	Elders Chiefs Palace	Y=16 N=18 NA=8	P=18 N=11 R=4 N/A=9

Section E: Past Community Dispute Behaviour									
I/N	Troubles Awareness	Frequency of troubles	How Troubles Start	Participants of the fighting	Community Settle	Honour traditional resolution	Don't honour what happen	View of Trad. Resolution	Govt. Intervened
1	Y	N/A	N/A	N/A	Y	N/A	Court	N/A	N/A
2	Y	N/A	N/A	N/A	Y	Y	N/A	Positive	Y
3	Y	N/A	N/A	Everybody	N/A	N/A	N/A	N/A	Y
4	Y	N/A	N/A	N/A	N/A	Y	Talk them to stop	N/A	Y
5	Y	N/A	N/A	Youths and old ones	N/A	Y	Court	Positive	Y
6	Y	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
7	Y	N/A	Local Govt. Struggles	Everybody	N/A	N/A	N/A	Positive	Y
8	Y	N/A	Ishakole	N/A	Y	N/A	N/A	N/A	Y
9	Y	N/A	Local govt.	Young and old	N/A	Y	Discipline, punishment	N/A	Y
10	Y	N/A	N/A	Young and old	N/A	Y	Discipline	Better	Y
11	Y	Sometimes	N/A	Everybody	Y	Y	Court	Good	Y
12	Y	Sometimes	DK	All who could fight	Y	Y	Court	Good	Y
13	Y	None	Land	Young people	Y	Y	Court	Good	Y
14	Y	Always	Land	Everybody	Y	Y	Court	Good	Y

Section E: Past Community Dispute Behaviour									
15	Y	Sometimes	DK	Young men, women , older ones	Y	Y	Banished	Good	Y
16	Y	None	Youths start it	Strong and brave	Y	Y	Court	Like it	Y
17	Y	Sometimes	Election and Land	Youths	Y	Y	N/A	Useful	Y
18	Y	Some times	Older ones gives order	Middle aged and Young ones	Y	Y	Punishment	Best	Y
19	Y	Sometimes	Older ones gives order to youths	Strong men	Y	Y	Banishment	Best	Y
20	Y	Sometimes	Youths	Young boys and strong men	N	Y	Punish in palace	Very good	Y
21	Y	Always	Trouble start in the farms	Men	Y	Y	Fine	Very good	Y
22	Y	Sometimes	DK	Men and Youths	Y	Y	Fine or ostracize you	Good	Y
23	Y	Sometimes	DK	Men and Youths	Y	Y	Fined	Best	Y
24	Y	Sometimes	Youths	Men	Y	Y	Fine	Best	Y
25	Y	Always	Land	Everybody	Y	Y	Court	Better	Y
26	Y	N/A	DK	Young men	Y	Y	Court	Good	Y
27	Y	None	Shooting in farms	Strong men and youths	Y	Y	Court	I like it	Y
28	Y	Sometimes	Election fights	Youths	N	Y	Court	Very Good	Y

Section E: Past Community Dispute Behaviour									
29	Y	Sometimes	Older men give orders to youths	Strong men	Y	Y	Banish	Best	Y
30	Y	Sometimes	Older local Government and Ishakole	Young men	Y	Y	Court	Good	Y
31	Y	Sometimes	DK	Men and Youths	Y	Y	Fined	Best	Y
32	Y	Sometimes	Youths throwing stones	Young men older men	Y	Y	Punishment	Okay	Y
33	Y	Sometimes	Older men give orders	Middle aged men and youths	Y	Y	Fined	Better	Y
34	Y	Sometimes	DK	Men	Y	Y	No Choice	Best	Y
35	Y	Sometimes	Youths	Young men	Y	Y.	Punish family	Good	Y
36	Y	Sometimes	DK	Men	Y	Y	Fines	Good	Y
37	Y	Always	Ishakole	Men, Youths	Y	Y	Fines	Good	Y
38	Y	Sometimes	DK	Men	Y	Y	Trouble	Best	Y
39	Y	Sometimes	Ife attack in the farms	Youths	Y	Y	Fine	Good	Y
40	Y	Sometimes	DK	Youths	Y	Y	Fine	Good	Y
41	Y	Sometimes	Youths	Men and youths	Y	Y	Outcast	Best	Y

Section E: Past Community Dispute Behaviour									
42	Y	Sometimes	Youths	Men and young ones	Y	Y	Fine	Best	Y
Total=42	Y=42 N=0 NA=0	Sometimes=24 Always=4 None=3 Never=0 N/A=11	Youths= Leaders=	Youths=19 Everybody=5 Men=5 N/A=5 Others=7	Y=33 N=2 N/A=7	Y=37 N=0 N/A=5	Court=12 Banishment=0 Fines=11 Others=13 N/A=6	Positive=3 6 Negative=0 N/A=6	Y=40 N=0 N/A=2

Section F: Structure of the Conflict								
I/N	Causes of conflict	Who Orders conflict	Weapons used	Source of weapons	Who participates in fighting	Others from outside community participate	How violence is stopped	Fighting continuous
1	Boundary	N/A	N/A	N/A	Men	N/A	N/A	N
2	N/A	N/A	N/A	N/A	N/A	N/A	G	N/A
3	Local govt.	N/A	N/A	N/A	Everybody	N/A	N/A	N/A
4	N/A	NA	N/A	N/A	Everybody	N/A	G	N/A
5	Local govt.	N/A	N/A	N/A	N/A	N/A	G	N/A
6	N/A	N/A	N/A	N/A	N/A	N/A	G	Y
7	Local Govt.	NA	N/A	N/A	Everybody	N/A	N/A	N/A
8	Ishakole, local govt., calling slaves	Leaders	Guns	N/A	N/A	N/A	G, NGO	N/A
9	Local Govt.	N/A	Swords, Cutlass, guns	N/A	Young and old	N/A	G	N/A
10	N/A	NA	N/A	N/A	N/A	N/A	G	N/A
11	Slaves	Leaders	Guns, bombs, cutlass, axes	DK	Everybody	Y	G	N/A

12	Land	Leaders	Guns	DK	Youths	DK	G	DK
13	Local Govt.	Leaders	Guns, cutlass, bows,	DK	Everybody	N	G	Y
14	Local govt. and Land	Leaders	Guns	DK	Everybody	N	G	Y
15	Land	Leaders	Guns	DK	Everybody	DK	G	Y
16	Land and Local govt.	DK	Guns AK 47	DK	Everybody	N	G	N/A
17	Local govt.	DK	Guns,	DK	Everybody	N	G	Y
18	Ishakole	Older ones	Guns, machete,	They find way	Young strong men	N	G	N
19	Ishakole	Older ones	Guns, machete	DK	Men	N	G	N
20	Land	Older ones	Guns	DK	Mena and young boys	N	G	N
21	Ishakole, local govt.	DK	Guns ,Cutlass	DK	N/A	Y	G	N
22	Land	Leaders	Guns	DK	N/A	Y	G	N
23	Local Govt.	DK	Guns knives	DK	N/A	Y	G	N
24	Land	DK	Guns, cutlass	DK	N/A	Y	G	N
25	Land and local govt.	DK	Guns, Cutlass,	DK	Young People	Y	G	Y
26	Land and local govt.	Leaders	Guns	DK	Youths	DK	G	Y
27	Local govt.	Leaders	Guns	DK	Everybody	N	G	N
28	Local govt.	Leaders	Guns, juju	DK	Youths	N	G	Y
29	Land and Local govt.	DK	Guns, machete	DK	Men	N	G	Y
30	Ishakole	Leaders	Guns, machete	DK	Men	N	G	Y
31	Local govt.	DK	Guns, knives	DK	N/A	Y	G	N
32	Land and local govt.	Leaders	Guns, bombs	DK	Men	N	G	Y

33	Ishakole, Local Govt.	Leaders	Guns	Somehow	Men	N	G	Y
34	Local govt.	DK	Guns	DK	Men	Y	G	Y
35	Land	DK	Guns	DK	Men and women	Y	G	N
36 no ques 't. parti ci- pant	Land, Local govt.	Leaders	Guns, cutlass	DK	N/A	Y	G	N
37	Ishakole. Local govt.	DK	Guns, cutlass	DK	N/A	Y	G	N
38	Local govt.	DK	Guns	DK	N/A	Y	G	N
39	Ishakole, local govt.	DK	Guns, cutlass, stones	DK	N/A	Y	G	N
40	Local govt.	DK	Guns	DK	N/A	Y	G	N
41	Local Govt.	DK	Guns, cutlass	DK	N/A	Y	G	N
42	Land	DK	Guns, cutlass	DK	N/A	Y	G	Y
Total=42	Land Local Govt. Ishakole	L=14 Older ones=3 DK=16 N/A=9	Guns, Bombs, Cutlass,	DK=29 Others=3 N/A=10	Youths=4 Everybody=10 Men/Women=11 N/A=17	Y=16 N=13 DK=3 N/A=10	G=40 T=0 N/A=2	Y=14 N=18 DK=1 N/A=9

Key

1	19-30 years old
2	31-60 years old
3	60 plus
M	Male
F	Female
I/N	Number in interview transcript
A	Uneducated
B	Semi-Educated up to secondary school
C	Higher Education
CM	Community
DK	Don't Know
G	Government
NA	No Answer
M	Many
R	Relative
S	Similar
T	Tradition
V	Villages
W	Wards
Y	Yes

Section G (1): Present Relationship Between State and Tribes		
I/N	Relationship between community and Nigerian State	Community Continue to rule itself
1	Dependency of Ife	Y
2	N/A	N/A
3	N/A	N/A
4	Kabiesi typewriter local government proprietor	Y
5	N/A	N/A
6	N/A	N/A
7	N/A	N/A
8	Dependency	N/A
9	N/A	N/A
10	N/A	N/A
11	N	N
12	Okay	N
13	Good	N
14	Co-operate	N
15	Co-operate	N
16	Good	N
17	Cordial	N
18	Government rules now	N
19	Co-operate with government	N
20	Co-operate with government	N
21	Government boss	N
22	Accept government	N
23	Government is head	R
24	Respect government	R
25	Government overall	Y
26	No choice obey government	N
27	Good	N
28	Good	N

Section G (1): Present Relationship Between State and Tribes		
I/N	Relationship between community and Nigerian State	Community Continue to rule itself
29	Co-operate with government	R
30	Co-operate	N
31	Government allows our king	R
32	Co-operate	N
33	Co-operate	N
34	Respect Government	N
35	Co-operate	N
36	Don't like government	N
37	Co-operate	N
38	Co-operate	N
39	Co-operate	N
40	Government Superior	N
41	Co-operate	N
42	Respect Government	R
TOTAL=42	Co-operate=13 Good=4 Respect=3 Superior=2 Others=13 N/A=7	Y=3 N=26 R=5 DK=0 N/A=8

Section G (2): Traditional Resolution Vs State Resolution			
I/N	Government Resolution Same as Tradition	Recommend Government?	Preference for Government or Tradition
1	N/A	N/A	N/A
2	N/A	R	N/A
3	N/A	N/A	N/A
4	NA	N/A	NA
5	N/A	N/A	T
6	NA	N/A	N/A
7	N/A	Y	T
8	N/A	Y	T
9	N/A	N/A	T
10	N/A	N/A	T
11	N/A	Y	N/A
12	Y	Y	G
13	N	Y	T
14	N	N	T
15	N	R	T
16	N	N	T
17	N	N	G
18	N	N	G
19	N	N	T
20	N	N	T
21	N	N	T
22	N	N	T
23	N	Y	T
24	N	Y	T
25	N	N	T
26	N	N	T
27	N	N	T
28	N	N	T

29	N	N	T
30	N	Y	T
31	N	N	T
32	N	N	T
33	N	N	T
34	N	N	T
35	N	N	T
36	N	N	T
37	N	N	T
38	N	Y	G
39	N	N	T
40	N	N	G
41	N	Y	T
42	N	Y	T
TOTAL=42	Y=1 N=30 S=0 N/A=11	Y=11 N=22 R=2 N/A=7	T=31 G=5 N/A=6

Section H: Effect of Conflict				
I/N	Conflict ended	Effect of Conflict	Tradition Resolution successful	Government resolution successful
1	Y	No development	Y	N/A
2	NS	Loss of properties, Deaths	N/A	N/A
3	DK	N/A	N/A	N/A
4	N/A	N/A	N/A	N/A
5	Y	N/A	N/A	N/A
6	N/A	N/A	N/A	N/A
7	Y	Devastation for both communities	N/A	N/A
8	N/A	Deaths	N/A	N/A
9	Y	Deaths, Loss of properties	N/A	N/A
10	Y	Loss of properties	N/A	N/A
11	Y	Death	Y	Y
12	Y	Deaths, loss of properties	N	Y
13	Y	Deaths, loss of property, unemployment	Y	N
14	N	Deaths	R	Y
15	N	Deaths	Y	Y
16	DK	Deaths	Y	Y
17	NS	Death	N	Y
18	NS	Death of young ones	R	N
19	N	Death	Y	Y

Section H: Effect of Conflict				
I/N	Conflict ended	Effect of Conflict	Tradition Resolution successful	Government resolution successful
20	N	Death Loss of properties	Y	R
21	N	Death of young men	Y	N
22	N	Death , peace gone	Y	N
23	N	Deaths, loss of properties	Y	N
24	N	Death of children	Y	N
25	N	Death,	N	Y
26	N	Death	Y	Y
27	N	Deaths, loss of properties	Y	Y
28	NS	Deaths, loss of properties	Y	N
29	N	Deaths	Y	N
30	N	Deaths	Y	Y
31	N	Deaths	Y	N
32	N	Deaths	Y	N
33	NS	Death Loss of properties	Y	N
34	N	Death, loss of properties	Y	Y
35	N	Death	Y	N
36	N	Loss of everything	N	Y
37	N	Deaths	Y	N
38	N	Deaths	Y	Y

Section H: Effect of Conflict				
I/N	Conflict ended	Effect of Conflict	Tradition Resolution successful	Government resolution successful
39	N	Deaths	Y	N
40	N	Deaths	Y	Y
41	N	Houses burnt	Y	N
42	N	Deaths	Y	N
Total=42	Y=8 N=24 NS=5 DK=2 N/A=3	Deaths, Loss of properties No Development Disruption of school	Y=27 N=4 R=2 NS=0 N/A=9	Y=15 N=16 R=1 NS=0 N/A=10

Key

1	19-30 years old
2	31-60 years old
3	60 plus
M	Male
F	Female
I/N	Number in interview transcript
A	Uneducated
B	Semi-Educated up to secondary school
C	Higher Education
CM	Community
DK	Don't Know
G	Government
NA	No Answer
M	Many
R	Relative
P	Positive
S	Similar
T	Tradition
V	Villages
W	Wards
Y	Yes

APPENDIX 15: DEFINITIONS

Some of the major terms that are reoccurring in this thesis are explained in this definition' section. Other terms not mentioned in the Appendix are defined in the footnotes where they appear, or within the various chapters, they are used. This thesis does not engage with the whole of the literature on the definitions, but only puts forward one or two sources, which supports the decision as to the researcher's usage of the words.

People Groups and Groups

The word 'people' has various meaning according to the context in which it is used. Sometimes it is used to describe "a nation in its collective and political capacity"¹ or generally human beings linked by common interest.²

This thesis adopts a general and basic definition. One given by the Merriam Webster online dictionary as:

*"A body of persons that are united by common culture, tradition, or sense of kinship, that typically have common language, institutions, and beliefs, and that often constitute a politically organised group."*³

People in the above definition demonstrate commonality in a group. Therefore, 'people group' as used in this thesis to describe the Ife and the Modakeke represent a people with common interest, culture and beliefs. The Researcher had chosen to use 'people group' or in most case 'groups' to refer to both the Ife and the Modakeke peoples rather than using ethnic group or tribal groups which have come to be affected by controversies.

The Researcher contemplated the use of tribes and sub-tribes to describe the Ife and the Modakeke of Nigeria. However, because of the negative connotation of the word 'tribe' the thesis refrains from using the term. According to Southall, the term 'tribe' has negative connotations such as implying primitiveness and slavery. Indeed, he admonished fellow

¹H.C Black., *Black's Law Dictionary: Definitions of the Terms and Phrases of American and English Jurisprudence Ancient and Modern* (The Publishing Editorial Staff. West Publishing Co., 1968) p. 1292

² Merriam Webster online dictionary. Available at <https://www.merriam-webster.com/dictionary/people>

³ Ibid. fn. 2

anthropologists to “stop calling primitive and tribal the contemporary communities”.⁴ Rather, he advocated that societies should be referred to as ethnic groups.⁵ In keeping with modern description of groups,⁶ this thesis uses the term ‘people group’ or plainly ‘groups’ and ‘sub-groups’.

Conflict and Dispute

Goldman and Rojot defined “conflict” as “divergence of interest.”⁷ “Dispute” on the other hand is defined by Merrills as “a specific disagreement concerning a matter of fact, law or policy in which a claim or assertion of one party is met with refusal, counter-claim or denial by another.” Hibberd and Newman argues that “[d]ispute need not follow claims, nor does conflict need to follow a dispute.”⁸

The above definitions shows that ‘Conflict’ and ‘Disputes’ are two distinct terms. And, for the purposes of the thesis, ‘dispute’ is disagreement which the parties are seeking to resolve calmly by a process such as mediation or litigation, whereas ‘conflict’ is a more emotionally charged disagreement which can be resolved either (i) by identifying the underlying issues and settled as a dispute by resolution processes such as mediation or adjudicated, or (ii) by methods or techniques such as separating the conflicting parties from each other. This thesis is not concerned with dispute settlement or adjudication, but with conflict resolution and prevention.

State and sub-state

The definition of a State adopted in this thesis is that of the Oxford English Dictionary which defines a State as “a nation or territory considered as an organized political community under one government⁹” and as an “organised political community or area forming part of a federal

⁴ A. Southall., *The illusion of Tribe* in C.W Peter., *The Passing of Tribal man in Africa* (ed. 28-50 Leiden Netherlands: E. J. Brill, 1970) p. 47

⁵ A. Southall., (1970) *Ibid.* p. 48

⁶ Akanji in describing the Ife and the Modakeke applied the term ‘people group’. See O.O Akanji., ‘Group Rights and Conflicts in Africa: A Critical Reflection on Ife-Modakeke, Nigeria’ *International Journal on Minority and Group Rights* vol. 16. no. 1., 2009, p. 31-51 [35]

⁷ A.L Goldman & J. Rojot., *Negotiation theory and Practice* (Kluwer Law International, London, 2003) p. 7

⁸ P. Hibberd & P. Newman., *ADR and Adjudication in Construction Disputes* (Oxford: Blackwell Science, 1999) p. 10

⁹ Oxford Dictionary of English by A. Soanes & A. Stevenson., (2nd ed. Oxford University Press, 2005) p. 1727

republic.¹⁰” To this end, the thesis refers to a sovereign State as a complete and self-existent government rather than to a constituent part of a greater State to which a nation or community is subject. “The Nigerian State” therefore refers to the Federal Republic of Nigeria as a sovereign entity composed of thirty-six states and local government areas. It is not in doubt that Nigeria is a sovereign State. However, it is important to indicate from the beginning that the terms ‘State of Nigeria’ and ‘Nigerian State’ are rendered with a capital letter ‘S’ for ‘State’, whereas the term ‘state’, referring to regional states within Nigeria (such as Osun state) is rendered with a small letter ‘s’.

Autonomy and Self-determination

Autonomy is from the ancient Greek word *auto-nomos* characterised by self-government, and self-determination is an expression of autonomy.¹¹ What this implies is freedom to act within reason and respect for others’ individuality and space. For the Ife-Modakeke groups this means that both the Ife and the Modakeke can only live in harmony with each other if each sub-group has separate identity and space within the Nigerian established systems without undermining the sovereignty of the Nigerian State. Thus, self-determination which, in general, is the right to self-rule does not include (so far as concerns this thesis) the right to cession from Nigeria. The expression ‘internal self-determination’ is restricted to the struggle of the Modakeke for economic and political autonomy from the Ife within Nigerian boundaries.

¹⁰Oxford Dictionary of English. Ibid. fn. 9 p. 1727

¹¹ ‘Internet Encyclopaedia of Philosophy. A Peer Reviewed’ Academic Resources. <http://www.iep.utm.edu/aut-norm.html>

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