

## **Ancient Niger Delta Trading States, 1884/85 Negative Sovereignty Treaties, Positive International Law, British Colonization & Good Governance towards the Advancement of Civilization in Nigeria**

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**ABSTRACT:** *This socio-legal study examines the 1884/85 imperialistic vis-à-vis negative sovereignty treaties of friendship, commerce and protection, simply called treaties of protection, which were entered into by Great Britain and the Ancient Niger Delta Trading States, so as to maintain and strengthen the cordial relations that were existing between the parties. However, positive international law altered the hitherto proto natural law-based equal and cordial relations between the Ancient Niger Delta Trading States and the Western European nations, from the 15<sup>th</sup> Century AD, when the Portuguese explorers and merchants were dominant in the Niger Delta region, before the arrival of Great Britain and France in the region about the 18<sup>th</sup> Century AD. Positive international law, enhanced by British gunboat diplomacy associated with it, promoted Western imperialism and thereby enabled Great Britain to achieve her imperialist ambition of transforming the erstwhile naturally sovereign Ancient Niger Delta Trading States and their mainland and hinterland ethnic nationality areas into the 1885 British Protectorate of the Niger Districts. Based on British imperialist protectionism over the Niger Districts and the rest of pre-colonial Nigeria, the entire ethnic nationality areas of pre-colonial Nigeria became a single British colonial possession called the Colony and Protectorate of Nigeria, otherwise called modern Nigeria, in 1914. The British colonial government eventually granted political independence to modern Nigeria in October 1960. From the background of the aforementioned 1884/85 negative sovereignty treaties and continuing agitation of separatist groups in post-colonial Nigeria for improvement of their lots, the study makes a case for good governance, boosted by ethos of natural law and the social contract of governance, towards the advancement of civilization in the country.*

**KEYWORDS:** 1884/85 Negative Sovereignty Treaties; Great Britain; Ancient Niger Delta Trading States; Imperialism; Positive International Law; British Colonization; Separatist Groups; Natural Law; Social Contract of Governance; Good Governance; Advancement of Civilization; Wellbeing; Political Stability; Sustainable Peace; Sound, Just and Equitable Sustainable Development

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## INTRODUCTORY BACKGROUND

This socio-legal type of non-doctrinal study,<sup>1</sup> examines the 1884/85 imperialistic *vis-à-vis* negative sovereignty treaties of friendship, commerce and protection, simply called ‘treaties of protection’ or ‘protection treaties’,<sup>2</sup> which were entered into by Great Britain and the Ancient Trading States of the Niger Delta, as a means of maintaining and strengthening the friendly relations between and among the parties.<sup>3</sup> These treaties, which contents are similar, were also designed by the Imperialist Great Britain to promote administration of justice, development of resources, as well as in the interest of commerce, or any other matter relating to peace, order, good government and the general progress of civilization in the respective Ancient Niger Delta Trading States.<sup>4</sup> Earlier-on, when the Portuguese explorers and merchants were dominant in the

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<sup>1</sup> N. Creutzfeldt *et al.* (eds), *Routledge Handbook of Socio-Legal Theory and Methods* (Routledge, 2020); C. Wigwe, *Legal Research Methodology and Practice* (Princeton and Associates Publishing Co., 2019), 11–25; R. Banakar and M. Travers (eds), *Theory and Method in Socio-Legal Research* (Hart Publishing, 2005); R. Banakar and M. Travers (eds), *Law and Social Theory* (Hart Publishing, 2014); D. Feenan, *Exploring the ‘Socio’ of Socio-Legal Studies* (Palgrave Macmillan, 2013); D. N. Schiff, ‘Socio-Legal Theory: Social Structure and Law’ [1976], 39 (3), *The Modern Law Review*, 287–310.

<sup>2</sup> Preamble and Articles I, V and VII, Treaty between Great Britain and Bonny, signed at Bonny, August 22, 1884; E. J. Alagoa and A. Fombo, *A Chronicle of Grand Bonny* (Ibadan University Press, 1972/Onyoma Research Publications, 2001), 120–121; Preamble and Articles I, V and VII, ‘Treaty between Great Britain and New Calabar’, signed at New Calabar, July 4 1884; G. I. Jones, *The Trading States of the Oil Rivers: A Study of Political Development in Eastern Nigeria* (International African Institute (Oxford University Press, 1963/James Currey Publishes, 2000), 243–245; Preamble and Article I, Preliminary Treaty with King Jaja and the Chiefs of Opobo, signed July 1, 1884’, and Preamble and Articles I, III and V, ‘Treaty with King Jaja and Chiefs of Opobo, signed at Opobo, December 19, 1884’; G. N. S. Ogolo, *Opobo Excerpts (An Insight into An African Kingdom)* (Etuk Concepts, 2012), 93–96; E. T. Bristol-Alagbariya, ‘The Validity and Enforceability of the Oil Rivers Treaties of Protectorate’ [1990], Dissertation submitted to the Faculty of Law, Rivers State University of Science and Technology, in partial fulfilment of the requirements for the award of the Degree of Bachelor of Laws (LLB); Federal Republic of Nigeria, *Nigeria at 50: A Compendium. The Official and Authoritative Book About Nigeria* (1<sup>st</sup> October Publishing, 2014); *Land and Maritime Boundary between Cameroon and Nigeria (Cameroon vs. Nigeria)* [2002], International Court of Justice (ICJ) Report, 303; S. G. Mukete, *The Role of the ICJ in the Settlement of International Disputes: The Bakassi Dispute: Cameroon vs. Nigeria* (LAP LAMBERT Academic Publishing, 2016); E. E. Egede and M. O. Igiehon (eds), *The Bakassi Dispute and the International Court of Justice: Continuing Challenges* (Routledge, 2018).

<sup>3</sup> A. Ansong, *The Concept of Sovereign Equality of States in International Law* (Law Research Associates, 2012); E. D. Dickinson, *The Equality of States in International Law* (Harvard University Press, 1920/Alpha Editions, 2019).

<sup>4</sup> Article V, Treaty between Great Britain and Bonny, signed at Bonny, August 22, 1884; E. J. Alagoa and A. Fombo (n2), 121; Article V, ‘Treaty between Great Britain and New Calabar’, signed at New Calabar, July 4 1884; G. I. Jones (n2); 244; Article V, ‘Treaty with King Jaja and Chiefs of Opobo, signed at Opobo, December 19, 1884’; G. N. S. Ogolo (n2), 95.

Niger Delta region from the 15<sup>th</sup> Century AD, relations between the Portuguese and the Ancient Niger Delta Trading States were proto natural law-based and thus equal and cordial; this was before the Great Britain and France became dominant in the region about the 18<sup>th</sup> Century AD.<sup>5</sup> The negative sovereignty treaties of protection were enforced by the Imperialist Great Britain in a way that derogated from the sovereignty *vis-à-vis* natural sovereign status of the Ancient Niger Delta Trading States, which transformed these Trading States and their mainland and farther hinterland areas into a British imperial possession called the Protectorate of the Niger Districts.<sup>6</sup> By and large, Great Britain enforced the entire negative sovereignty treaties between her and various pre-colonial ethnic nationalities that she entered into such treaties in an imperialist manner that ultimately transformed the entire pre-colonial Nigeria into the Colony and Protectorate of Nigeria (British colonial Nigeria).<sup>7</sup>

It may be highlighted that under the regime of positive international law, which prevailed during the period under consideration, these negative sovereignty treaties abysmally transformed the hitherto friendly relations of the parties. Positive international law, boosted by British gunboat diplomacy<sup>8</sup> that was associated with it, provided the framework that enabled Great Britain to establish her imperialist protectionism over the erstwhile naturally sovereign Primordial Niger Delta Trading States and their mainland and hinterland ethnic nationality areas, which became a single British Protectorate.

So, based on these negative sovereignty treaties, Imperialist Great Britain extended her sovereign power and dominion over the entire naturally sovereign Primordial Niger Delta Trading States

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<sup>5</sup> N. Briggs *et al.* (eds), *The Economic Development of Rivers State: In Commemoration of Port Harcourt Centenary Celebration 2013* (Rivers State Economic Advisory Council/Onyoma Research Publications, 2013), 76; E. J. Alagoa and A. A. Derefaka (eds), *The Land and People of Rivers State: Eastern Niger Delta* (Onyoma Research Publications, 2002), 277.

<sup>6</sup> E. T. Bristol-Alagbariya, *Participation in Petroleum Development: Towards Sustainable Community Development in the Niger Delta* (CEPMLP/Dundee University Press [DUP]), 2010), 130; E. J. Alagoa and A. A. Derefaka (eds) (n5), 321–347.

<sup>7</sup> M. Crowder, *The Story of Nigeria* (Faber and Faber, 1978), 188–206; Google Arts & Culture, ‘Lagos Treaty of Cession’ <<https://artsandculture.google.com/entity/lagos-treaty-of-cession/m012r24dv?hl=en>>; Wikiwand, ‘Lagos Colony’ <[https://www.wikiwand.com/en/Lagos\\_Colony](https://www.wikiwand.com/en/Lagos_Colony)> both Accessed August 31, 2022.

<sup>8</sup> U. J. Akpan, ‘Gunboat Diplomacy and the British Annexation of the Niger Delta Region of Nigeria (1836-1885): An Appraisal’ [2019], 127 *Elixir Social Studies*, 52701–52707; So Jaja and E.A. Jaja, *Aspects of British Gunboat Diplomacy -Jaja King of Opobo* (BMO Publishing, 2015); Urhobo Historical Society, ‘British Colonial Rule in the Niger Delta “Treaties of Protection”’ <<https://urhobodigitallibrarymuseum.com/treaties-of-protection/>>; So Jaja, ‘Aspects of British Gunboat Diplomacy – Jaja King of Opobo’ <<https://www.blackhistorymonth.org.uk/article/section/african-history/aspects-of-british-gunboat-diplomacy-jaja-king-of-opobo/>> both Accessed August 31, 2022; A. Preston and J. Major, *Send a Gunboat: 150 Years of the British Gunboat: The Victorian Navy and Supremacy at Sea, 1854 – 1904* (Naval Institute Press, 2006); J. Cable, *Gunboat Diplomacy: Political Applications of Limited Naval Force* (Palgrave Macmillan, 1981).

and their mainland and hinterland ethnic nationality areas and thereby transformed these areas into the British Protectorate of the Niger Districts.<sup>9</sup> In the process, British imperialist protectionism flourished throughout the entire pre-colonial Nigeria. In other words, through a series of political amalgamation, Imperial Great Britain transformed her Protectorate of the Niger Districts and her other Protectorates and accordingly foisted over the rest of pre-colonial Nigerian ethnic nationality areas into a single British colonial possession called the Colony and Protectorate of Nigeria, otherwise known as modern Nigeria, in 1914.<sup>10</sup>

From the background of the 1884/85 negative sovereignty treaties between the Ancient Niger Delta Trading States and Great Britain and the agitation of separatist groups in Nigeria for the improvement of their lots, the study underscores the need for improvement of the welfare of the ethnic minority Delta region and other component ethnic nationalities, through good governance (GG), which is capable of fulfilling government social responsibility, strengthened by ethos of natural law<sup>11</sup> and the social contract of governance.<sup>12</sup>

<sup>9</sup> V. I. Lenin, *Imperialism The Highest Stage of Capitalism* (International Publishers, 1969/The Leftist Public Domain Project, 2021); J. A. Hobson, *Imperialism: A Study* (Cosimo Inc., 2005/Forgotten Books, 2018); G. Reisman, *Capitalism: a Treatise on Economics* (Jameson Books, 1996); A. Von Rhodius, *British Imperialism* (Forgotten Books, 2012); Encyclopaedia Britannica, 'imperialism', <<https://www.britannica.com/topic/imperialism>> Cambridge Dictionary, 'Capitalism', <<https://dictionary.cambridge.org/dictionary/english/capitalism>> both Accessed August 31, 2022; M. Crowder (n7), 188–206; E. T. Bristol-Alagbariya (n6), 130; E. J. Alagoa and A. A. Derefaka (eds) (n5), 321–347.

<sup>10</sup> *Ibid.*

<sup>11</sup> A. Passerin d'Entrèves and C. J. Nederman, *Natural Law: An Introduction to Legal Philosophy* (Routledge, 2017); P. E. Sigmund, *Natural Law in Political Thought* (University Press of America, 1981); M. H. Kramer, *Where Law and Morality Meet* (Oxford University Press, 2004); A. Gomez-Lobo, *Morality and the Human Goods: An Introduction to Natural Law Ethics* (Georgetown University Press, 2001); J. Budziszewski, *Written on the Heart: The Case for Natural Law* (InterVarsity Press, 1997); C. E. Rice, *50 Questions on the Natural Law: What It Is and Why We Need It* (Ignatius Press, 1999); J. D. Breshears, *Natural Law: The Moral Foundation for Social and Political Civility* (CentrePointe Publishing, 2016); R. F. L. Girard, *Hugo Grotius: Natural Law and Social Contract Theory* (CreateSpace Independent Publishing Platform, 2014); Encyclopaedia Britannica, 'Social Contract' <<https://www.britannica.com/topic/social-contract>>; B. W. Johnson, *Natural Law: Morality and Obedience: Volume 1* (Tesko Publishing/Eduka Solutions, 2017); G. K. Meffe (Savannah River Ecology Laboratory, University of Georgia), 'Sustainability, Natural Law and the 'Real World'' *The Georgia Right FORUM*, 48–52 <<http://www.georgewright.org/104meffe.pdf>>both Accessed August 31, 2022.

<sup>12</sup> The Preamble and Section 14 (2) (b), 1999 Constitution of the Federal Republic of Nigeria (CFRN) (as amended), which provides that the security and welfare of the people are the primary purposes of government; Section 14 of the Constitution is captioned 'The Government and the People'; M. Lessonoff (ed), *Social Contract Theory* (Basil Blackwell, 1990); J. Rousseau and G. D. H. Cole, *The Social Contract, A Discourse on the Origin of Inequality, and A Discourse on Political Economy* (Digireads.com Book, 2005); J. Rousseau and Neville Jason, *The Social Contract* (Naxos AudioBooks, 2015); J. Rousseau and V. Gourevitch, *Rousseau: The Social Contract and Other Later*

Hence, in conformity with the overriding objective of the British colonial government and independent Nigeria's founding fathers, there is an extraordinary urgent need now for GG, to advance civilization after well over six decades of independent Nigeria towards SD in the country.<sup>13</sup> GG would unboundedly advance civilization in independent Nigeria and thereby enhance political stability, sustainable peace, and sound, just and equitable sustainable development (SD), as well as overall advancement in the country.<sup>14</sup>

### The Niger Delta

The word 'delta' is a Greek alphabet letter (the fourth letter of the Greek alphabet). It could be considered as the Greek capital delta or anything triangular, which describes a low-lying triangular plain that is composed of stream-borne sediments deposited by a river at its mouth; that means, where a river divides or splits into several smaller rivers, before flowing into a sea or an ocean.<sup>15</sup> It is normally a triangular mass of sediment, especially silt and sand, deposited at the mouth of a river, which flows into a body of standing water, such as a sea or lake, and deposits large quantities of sediment. Numerous streams and channels usually cross a delta area, and such

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*Political Writings* (Cambridge University Press, 2019); F. W. Blackmar, *The Story of Human Progress: A Brief History of Civilization* (Forgotten Books, 2019).

<sup>13</sup> Group 12 of the School of Politics, Policy & Governance (SPPG) Pioneer Cohort, *The Road to Good Governance in Nigeria & Africa: A Students' Memoir of the SPPG Pioneer Cohort* (SW Advantage Resources, 2022); O. K. Ezenyili, *Democracy and Good Governance in Nigeria: A Survey of Indices of Transparency and Accountability* (AuthorHouse, 2012); E. T. Bristol-Alagbariya, *Governance Towards Sustainable Development in Nigeria: The Role of Strategic Assessment of Decisions & Actions* (CEPMLP/DUP, 2013).

<sup>14</sup> World Commission on Environment and Development (WCED), *Our Common Future* (Oxford University Press, 1987), 8–9, 40 and 43; homepage of the Earth Charter (Earth Charter Initiative) <<https://earthcharter.org/>> Accessed August 31, 2022; P. B. Corcoran (ed), *The Earth Charter in Action: Toward a Sustainable Development* (KIT Publishers, 2006); UN Association of Australia (UNAA), *The Earth Charter* (UNAA 2017); UN, 'Meetings Coverage and Press Releases: Good Governance Essential to Development, Prosperity, Peace, Secretary-General Tells International Conference, Press Release SG/SM/6291/DEV/2166'

<<https://www.un.org/press/en/1997/19970728.SGSM6291.html>> Accessed August 31, 2022; K. Ginther *et al.* (eds), *Sustainable Development and Good Governance* (Martinus Nijhoff, 1995); E. T. Bristol-Alagbariya (n13); G. Ayre and R. Callway, *Governance for Sustainable Development: A Foundation for the Future* (Routledge, 2002); J. F. Sachs, *The Age of Sustainable Development* (University of Columbia Press, 2015); A. A. Mekonin, *Sustainable Development Law: the Path to Sustainable Peace* (LAP LAMBERT Academic Publishing, 2013); J. Blewitt, *Understanding Sustainable Development* (Routledge, 2018); N. Roorda, *Fundamentals of Sustainable Development* (Routledge, 2021); E. T. Bristol-Alagbariya, *Law & Ethical Conducts on Energy Resources Operations in Nigeria: Spotlight on Petroleum Development Operations* (LAP LAMBERT Academic Publishing, 2021), xxxv–xxxvi, 7, 15, 17–24, 61–62, 73–74, 84, 88–89, 94–95, 105 and 109.

<sup>15</sup> Encyclopædia Britannica, 'Niger River: River Africa' <<https://www.britannica.com/place/Niger-River>>; The Britannica Dictionary, 'Delta' <<https://www.britannica.com/dictionary/delta>>; Cambridge Dictionary, 'Delta' <<https://dictionary.cambridge.org/dictionary/english/delta>>; The American Heritage Science Dictionary, 'delta' <<https://www.dictionary.com/browse/delta>> all Accessed August 31, 2022.

an area has exposed as well as submerged components.<sup>16</sup> So, a delta is formed at the mouth of a river, where the river deposits the sediments carried by it and branches out into distributaries that flow into the sea or lake or another water body.<sup>17</sup> Deltas are thus wetlands that form as rivers, which empty their water and sediment into another body of water, such as an ocean, lake or another river. However, exceptional forms of deltas empty their water and sediment into land.<sup>18</sup>

Although most deltas around the world are triangular in shape, such as the Niger Delta, some exceptions exist.<sup>19</sup> There are therefore many types of deltas. Based on the factors that influenced how delta areas are formed and how they generate their different shapes, they may be or exist in any of the following forms: (i) Tide or Wave-dominated deltas like the Nile River (Nile delta) along the Mediterranean Sea; (ii) Wave-dominated deltas, such as the Ganges-Brahmaputra delta in India and Bangladesh; (iii) Gilbert deltas, such as Lake Bonneville and the mouth of several creeks that flow into Okanagan Lake in British Columbia to form prominent peninsulas at Naramata, Summerland and Peachland in British Columbia, Canada; and (iv) Estuarine deltas like the Yellow River of China and the estuary of the Tagus River in Portugal, which empties into the Atlantic Ocean near Lisbon. Accordingly, based on their shapes, deltas may be (v) Arcuate (triangular [triangle-shaped], arc-like or fan-shaped) deltas, such as the Niger (Nigerian) delta, which empties into the River Niger, and the Nile delta in Egypt, which empties into the Mediterranean Sea; (vi) Cuspate deltas, such as the mouth of the Tiber River on the Tyrrhenian Sea, near Rome; (vii) Bird-foot deltas like the Mississippi River that drains into the Gulf of Mexico; (viii) Inverted deltas such as the Sacramento-San Joaquin River in northern California, in the United States of America (USA); (ix) Inland deltas like Okavango delta in Botswana, which spreads its water along a flat plain in the Kalahari Desert; and (x) Abandoned deltas like those of the Mississippi River.<sup>20</sup> Based on the factors that influence how they are formed and their peculiar shapes, some types of delta may fit into more than one type or form of the deltas identified above. For example, considering how it was formed and its distinct shape, the Nile delta (Nile River) in Egypt may be considered as an arcuate delta and a wave-dominated delta, due to the wave-breaking feature of its upper and low-lying spheres.<sup>21</sup>

<sup>16</sup> The American Heritage Science Dictionary, 'delta' (n15).

<sup>17</sup> Worldatlas, 'How Many Types Of Deltas Are There?' <<https://www.worldatlas.com/articles/how-many-types-of-deltas-are-there.html>>; National Geographic Society, 'Delta' <<https://education.nationalgeographic.org/resource/delta>> both Accessed August 31, 2022.

<sup>18</sup> National Geographic Society, 'Delta' (n17).

<sup>19</sup> Encyclopaedia Britannica, 'Delta: River System Component' <<https://www.britannica.com/science/delta-river-system-component>>; Worldatlas, 'What Is A River Delta?' <<https://www.worldatlas.com/articles/what-is-a-river-delta.html>> both Accessed August 31, 2022.

<sup>20</sup> Worldatlas, 'How Many Types Of Deltas Are There?' (n17); Encyclopaedia Britannica, 'Niger River: River Africa' (n15); Cambridge Dictionary, 'Delta' (n15); The American Heritage Science Dictionary, 'delta' (n15).

<sup>21</sup> National Geographic Society, 'Delta' (n17); E. T. Bristol-Alagbariya, 'Primordial Niger Delta, Petroleum Development in Nigeria and the Niger Delta Development Commission Act: A Food For Thought!' [2020], 10 (3), *Developing Country Studies*, 109.

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The same as the Nile delta in Egypt that empties into the Mediterranean Sea, the Niger (Nigerian) Delta, which empties into the River Niger, is identified above as an Arcuate (triangular-shaped form or type of delta).

### **The Ancient Trading States of the Niger Delta Region**

The Ancient Trading States of the Niger Delta may be categorized or classified as the Ancient Ijaw and other Primordial Trading States of the primaeval Niger Delta region. The Ancient Ijaw Trading States of the Niger Delta are Nembe (Brass) of Central Niger Delta, and the Eastern Delta States of *Ibanise* (comprised of Grand Bonny Kingdom, which begat Opobo Kingdom), as well as Elem Kalabari (New Calabar) and Okrika (*Wakrikese*). Other Primordial Trading States of the Niger Delta region are the Efik Trading State of Old Calabar, and the Itsekiri (Warri) Trading Kingdom of Western Niger Delta.<sup>22</sup> The Primordial Trading States or Kingdoms of the Niger Delta region engaged in foreign relations, especially trading relations, with Western powers (European imperialist nations) that visited the region before the evolution of modern Nigeria. Such foreign relations began from the period of the arrival of the Portuguese explorers and merchants, who were dominant in the Niger Delta region between the 15<sup>th</sup> and 16<sup>th</sup> Centuries AD, the Dutch in the 17<sup>th</sup> Century AD, and then the French and the English in the 18<sup>th</sup> Century AD.<sup>23</sup> In the process, the English, by and large, Imperialist Great Britain became dominant in Niger Delta region and the rest of pre-colonial Nigeria, until Great Britain politically amalgamated and colonized the entire pre-colonial ethnic nationality areas of Nigeria from the late 19<sup>th</sup> Century AD and the early 20<sup>th</sup> Century AD. This was specifically so, from 1861, when the treaty of cession of Lagos was signed between Imperial Great Britain and Oba Dosunmu of Lagos,<sup>24</sup> and thereafter from 1884/85 to 1914. Imperial Great Britain politically amalgamated the entire pre-colonial Nigeria into a single British colonial possession known as the Colony and

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<sup>22</sup> G. I. Jones (n2); K. O. Dike, *Trade and Politics in the Niger Delta 1830–1885: An Introduction to the Economic and Political History of Nigeria* (Greenwood Publishers, 1981); E. J. Alagoa *et al.*, (eds), *The Izon of the Niger Delta* (Onyoma Research Publications, 2009); E. J. Alagoa, *A History of the Niger Delta* (Onyoma Research Publication, 2005); E. J. Alagoa, *The Small Brave City-State: A History of Nembe Brass in the Niger Delta* (Ibadan University Press, 1964/Onyoma Research Publications, 2009); E. J. Alagoa and A. Fombo (n2); O. Ikime, *Niger Delta Rivalry: Itsekiri-Urhobo Relations and the European Presence 1884-1936* (Humanities Press, 1969); Federal Republic of Nigeria, *Nigeria at 50: A Compendium: The Official and Authoritative Book About Nigeria* (n2); E. T. Bristol-Alagbariya (ed), *Historiographical & Natural Law-based CONGRATULATORY MESSAGE from the DUAWARIS to their Blood Brother & King: His Majesty, King Edward Asimini William Dappa Pepple III, CON, JP, Amanyanabo of Ancient Grand Bonny Kingdom* (LAP LAMBERT Academic Publishing, 2022), xliii, xlvi–xlvi, 64–65, 76–78, 82–83, 95–100, 108–110, 120–122, 125–126, 136–138, 170–173 and 223–227.

<sup>23</sup> N. Briggs *et al.* (eds) (n5), 76; E. J. Alagoa and A. A. Derefaka (eds) (n5), 277.

<sup>24</sup> Google Arts & Culture, ‘Lagos Treaty of Cession’ (n7); Wikiwand, ‘Lagos Colony’ (n75).

Protectorate of Nigeria, otherwise called modern Nigeria, in 1914, after which the British colonial government granted political independence to Nigeria, on October 1, 1960.<sup>25</sup>

### **Foreign Relations: Foreign Relations through Long-Distance Trade Involving the Ancient Niger Delta States**

Foreign Relations through long-distance trade in Ancient Niger Delta region may be classified into two. These are namely, primaeval long-distance trade, which took place between and among the trading states and other ethnic nationality areas of Primordial Niger Delta region and other primaeval ethnic nationality areas, such as the Igbo hinterland areas, Yorubaland and parts of Northern Nigeria, especially within the Igala-Lokoja areas of Nigeria's Middle belt.<sup>26</sup> Besides, there was the Atlantic long-distance trade in slaves and forest products, which took place between the Western imperialist nations and the Ancient Niger Delta Trading States. Whereas, the Atlantic trade in slaves took place dominantly for about three Centuries, but spread between the late 15<sup>th</sup> Century and early 19<sup>th</sup> Century AD,<sup>27</sup> the trade in forest products, such as palm oil, palm kernel, ivory and other forest products (described at the time when slave trade was outlawed as legitimate trade), took place from about the early 19<sup>th</sup> Century AD onwards to the early 20<sup>th</sup> Century AD.<sup>28</sup> In fact, the decline of the slave trade started simultaneously with the commencement of the legitimate trade in forest products, before the latter replaced the former completely.<sup>29</sup> It was during the Atlantic trade in forest products that the 1884/85 negative sovereignty treaties were entered into between the individual Primordial Niger Delta Trading States and the representative of the British Crown (Her Britannic Majesty, the Queen of Great Britain and Ireland, etc.), namely Edward Hyde Hewett, Esq. (the British Consul for the Bights of Benin and Biafra), who signed the treaties.<sup>30</sup>

Remarkably, from the period of the Atlantic trade in slaves and forest products, when Imperial Great Britain became dominant in the Niger Delta Trading States, the regime of positive

<sup>25</sup> E. T. Bristol-Alagbariya (n6), 130; E. J. Alagoa and A. A. Derefaka (eds) (n5), 321–347; Federal Republic of Nigeria, *Nigeria at 50: A Compendium: The Official and Authoritative Book About Nigeria* (n2).

<sup>26</sup> E. J. Alagoa, 'Long-Distance Trade and States in the Niger Delta', [1970], 11 (3), *The Journal of African History*, 319–329; E. T. Bristol-Alagbariya (ed) (n22), 100–101 and 110–111.

<sup>27</sup> N. Briggs *et al.* (eds) (n5), 76; E. J. Alagoa and A. A. Derefaka (eds) (n5), 277–281; S. Aderinto (ed), *African Kingdoms: An Encyclopedia of Empires and Civilizations* (ABC-CLIO, 2017); S. A. Ajayi (ed), *African Culture & Civilization* (Ibadan Cultural Studies Group, 2005); *Somerset's Case (Somerset vs Stewart)* [1772], 98 English Reports (ER) 499; S. M. Wise, *Though the Heavens May Fall: The Landmark Trial That Led to the End of Human Slavery* (Da Capo Press, 2006).

<sup>28</sup> N. Briggs *et al.* (eds) (n5), 50–85; E. J. Alagoa and A. A. Derefaka (eds) (n5), 281–284.

<sup>29</sup> N. Briggs *et al.* (eds) (n5), 76; E. J. Alagoa and A. A. Derefaka (eds) (n5), 277–281.

<sup>30</sup> E. J. Alagoa and A. Fombo (n2), 120–121, captioned Treaty between Great Britain and Bonny, signed at Bonny, August 22, 1884; G. I. Jones (n2), 243–245, captioned 'Treaty between Great Britain and New Calabar', signed at New Calabar, July 4 1884; G. N. S. Ogolo (n2), 93–96, captioned 'Preliminary Treaty with King Jaja and Chiefs of Opobo, signed July 1, 1884', and 'Treaty with King and of Opobo', signed at Opobo, December 19, 1884'.



international law had taken over from that of proto natural law in these States and the rest of pre-colonial Nigeria. Positive international law is a by-product of positive law, which established unequal and unfriendly relations between the British imperialist power and the Niger Delta Trading States and other pre-colonial naturally sovereign areas of Nigeria. Conversely, when the Portuguese explorers and merchants were dominant in the Ancient Niger Delta Trading States, they (the Portuguese) were equal trading partners, friends and associates with their counterparts of the Ancient Niger Delta Trading States, as naturally sovereign areas of primordial Nigeria.<sup>31</sup>

In fact, positive international law and the repressive form of international relations associated with it, promoted ominous and fratricidal forms or means of the use of force in the course of interactions between and among sovereign states, such as between and among the Western Imperialist (Western European) powers and their trading partners (the Ancient Niger Delta Trading States).<sup>32</sup> So, positive international law justified might (the use of force and all other ominous and fratricidal forms of power play) in international relations between and among sovereign states, to the advantage of powerful states (such as the Western European powers), and the detriment of weak states (as Africa's Ancient Niger Delta Trading States), during the era of the Atlantic trade in domain of the Trading States and hinterland areas of these States. Hence, based on the dictates of positive international law, the relationship between Imperialist Britain and her trading partners of the Niger Delta region and the rest of pre-colonial Nigeria was clearly unequal, not cordial and dictatorial, in favour of Imperialist Britain. It was during such a dictatorial and repressive regime of positive international law, strengthened by its repressive form of international relations, anchored on British gunboat diplomacy, that the 1884/85 negative sovereignty treaties were entered into between Imperialist Britain and her trading partners (the Ancient Niger Delta Trading States).<sup>33</sup>

### **The 1884/85 British Negative Sovereignty Treaties with the Ancient Trading States of the Niger Delta towards the Advancement of Civilization in Nigeria**

This heading of this aspect of the study may be divided into two sub-headings; (i) the 1884/85 British Negative Sovereignty Treaties with Ancient Trading States of the Niger Delta, Positive International Law and Colonization of Nigeria, and (ii) the 1884/85 British Negative Sovereignty

<sup>31</sup> A. Ansong (n3); E. D. Dickinson (n3).

<sup>32</sup> A. Oyeboode, 'Treaties and the Colonial Enterprise: The Case of Nigeria', [1990] 2 (2), *African Journal of International and Comparative Law*, 17–36; E. T. Bristol-Alagbariya (n2); C/f T. Ruys *et al.* (eds), *The Use of Force in International Law: A Case-Based Approach* (Oxford University Press, 2018); C/f Article 2 (6) and Chapter VII (Articles 39–51), UN Charter, 1945, especially Articles 39–42 and 51 of the Charter; Article 2, UN Charter is within Chapter 1 of the Charter, captioned 'Purposes and Principles'; Chapter VII (Articles 39–51), UN Charter is captioned 'Action with Respect to Threats to the Peace, Breaches of the Peace, and Acts of Aggression'.

<sup>33</sup> U. J. Akpan (n8); So Jaja and E.A. Jaja (n8); Urhobo Historical Society (n8); So Jaja (n8) both Accessed August 22, 2022; A. Preston and J. Major (n8); J. Cable, *Gunboat Diplomacy: Political Applications of Limited Naval Force* (n8).

Treaties with Ancient Trading States of the Niger Delta, towards and after Nigeria's Political Independence and the Advancement of Civilization in the Country

### **The 1884/85 British Negative Sovereignty Treaties with Ancient Trading States of the Niger Delta, Positive International Law and Colonization of Nigeria**

The 1884/85 British imperialist *vis-à-vis* negative sovereignty treaties were entered into from 1884 to 1885 (during the Berlin West African Conference). These treaties were entered into between each of the Ancient Niger Delta Trading States and Imperialist Great Britain, which was governed by Her Britannic Majesty, who was represented by Consul E. H. Hewett, Esq..<sup>34</sup> As indicated in the introductory part of this study, these negative treaties, which contents are similar, may be regarded as treaties of friendship, commerce and protection, or simply called 'treaties of protection' or 'protection treaties', which were signed to maintain and strengthen their cordial relations between and among the parties.<sup>35</sup> Also, these treaties were designed by the Imperialist Great Britain to promote administration of justice, development of resources, as well as in the interest of commerce, or any other matter relating to peace, order, good government and the general progress of civilization in the respective Ancient Niger Delta Trading States.<sup>36</sup>

Before the treaties were signed by the Niger Delta Trading States, there was the particular subject-matter of 'protection', which required explanation from Great Britain. King Jaja of

<sup>34</sup> E. J. Alagoa and A. Fombo (n2), 120–121, captioned Treaty between Great Britain and Bonny, signed at Bonny, August 22, 1884; G. I. Jones (n2), 243–245, captioned 'Treaty between Great Britain and New Calabar, 1884', signed on board Her Majesty's ship, *Flirt*, anchored in New Calabar River, July 4, 1884; G. N. S. Ogolo (n2), 93–96, respectively captioned 'Preliminary Treaty with King Jaja and the Chiefs of Opobo', signed on board Her Majesty's ship, *Flirt*, anchored in Opobo River, on July 1, 1884', and 'Treaty with King and Chiefs of Opobo', signed at Opobo, December 19, 1884'; Federal Republic of Nigeria (Federation of Nigeria), *Report by the Resumed Constitutional Conference, held in London in September and October, 1958, Presented by the Secretary of State for the Colonies to Parliament by Command of Her Majesty, November, 1958* (Federal Government Printer, 1958), Annex II, captioned 'Statement by the Secretary of State for the Colonies on the Treaties between the Crown and the Oil Rivers Chiefs', 37; Her Britannic Majesty, Queen Victoria (Alexandrina Victoria), Queen of the United Kingdom of Great Britain and Ireland (1837–1901) and Empress of India, Encyclopædia Britannica, 'Victoria: queen of United Kingdom <<https://www.britannica.com/biography/Victoria-queen-of-United-Kingdom>> Accessed August 31, 2022.

<sup>35</sup> Preamble and Articles I, III and V, Treaty between Great Britain and Bonny, signed at Bonny, August 22, 1884; E. J. Alagoa and A. Fombo (n2), 120–121; Preamble and Articles I, V and VII, 'Treaty between Great Britain and New Calabar, 1884'; G. I. Jones (n2), 243–245; Preamble and Article I, 'Preliminary Treaty with King Jaja and the Chiefs of Opobo', signed July 1, 1884', and Preamble and Articles I, III and V, 'Treaty with King and Chiefs of Opobo, signed at Opobo, December 19, 1884'; G. N. S. Ogolo (n2), 93–96.

<sup>36</sup> Article V, Treaty between Great Britain and Bonny, signed at Bonny, August 22, 1884; E. J. Alagoa and A. Fombo (n2), 120–121; Article V, 'Treaty between Great Britain and New Calabar, 1884', signed at New Calabar, July 4 1884; G. I. Jones (n2), 244; Article V, 'Treaty with King Jaja and Chiefs of Opobo, signed at Opobo, December 19, 1884'; G. N. S. Ogolo (n2), 95.

Opobo was more forward, vigorously vocal and greater vociferous on this subject-matter of ‘protection’ than the rest of the Monarchs of the Ancient Niger Delta Trading States. Eventually, in response to the concerns and questions raised by King Jaja, Consul E. H. Hewett Esq. provided the following answers:

You will be protected ... You will be protected from the France, ... The Queen will not interfere with your sovereignty over your territory or market. ...<sup>37</sup>

In terms of the justification of the parties to these treaties, it may be noted that Great Britain and the Ancient Niger Delta Trading States had obviously established friendship and commercial ties since the 18<sup>th</sup> Century AD. Besides, there was cut-throat competition between and among various Western European powers, which were operating during the era of the Atlantic trade in slaves and forest products in the Niger Delta region. Accordingly, the Ancient Niger Delta Trading States aggressively competed with each other, while trading with the Western European powers, during the Atlantic trade in the region. There was thus a need for Imperial Great Britain and the individual Ancient Niger Delta Trading States to maintain and strengthen their existing relations *vis-à-vis* to protect their mutual trading relations, by entering into such treaties of friendship, commerce and protection, during the Atlantic trade in the Niger Delta.

Based on the aforementioned needs, reasons or justifications of the parties for entering into the treaty, the above-stated answer of Consul E. H. Hewett convinced King Jaja of Opobo and the rest of the Monarchs and Chiefs of the Ancient Niger Delta Trading States to sign their respective treaty of friendship, commerce and protection with Great Britain. While signing the treaties, Consul E. H. Hewett represented Her Britannic Majesty (the Queen of Great Britain and Ireland, etc.), whereas the Kings and Chiefs of each Ancient Trading State of the Niger Delta represented their State. Consequently, the Treaty between Imperial Great Britain and Bonny (Grand Bonny), signed August 22, 1884, provides as follows:

The said E. H. Hewett Esq. and the said King and Chiefs of Bonny have agreed upon and concluded the following articles [of the treaty].<sup>38</sup>

Accordingly, the ‘Treaty between Imperial Great Britain and Elem Kalabari (New Calabar), signed on board Her Majesty’s ship (*Flirt*), anchored in New Calabar River, dated July 4, 1884, provides thus:

The said E. H. Hewett Esq. and the said King and Chiefs of New Calabar have agreed upon and concluded the following articles [of the treaty].<sup>39</sup>

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<sup>37</sup> N. A. I. Waribere, *King Jaja The Great of Opobo* (Rivers State Newspaper Corporation, 1991), 53.

<sup>38</sup> E. J. Alagoa and A. Fombo (n2), 120–121, captioned Treaty between Great Britain and Bonny, signed at Bonny, August 22, 1884, Preamble.

Emphatically therefore, as expressly stated in the preamble and Article I of the negative sovereignty treaty of pretention between Great Britain and Grand Bonny, the preamble and Article I of the negative sovereignty protection treaty between Imperial Great Britain and New Calabar expressly provides that the King, Chiefs and people of New Calabar requested protection from Great Britain. Hence, in compliance, ‘Her Britannic Majesty has named and appointed E. H. Hewett, Esq., her Consul for the Bights of Benin and Biafra, to conclude a treaty for this purpose’.<sup>40</sup>

Also, regarding Opobo Kingdom, Imperial Great Britain and the Kingdom signed two negative sovereignty treaties of friendship, commerce and protection, which are respectively captioned ‘Preliminary Treaty with King Jaja and the Chiefs of Opobo’, signed on board Her Majesty’s ship (*Flirt*), anchored in Opobo River, on July 1, 1884’, and the ‘Treaty with King and Chiefs of Opobo’, at Opobo, dated December 19, 1884. The contents of these two treaties between King Jaja and the Chiefs of Opobo Kingdom and Her Majesty (the Queen of the United Kingdom of Great Britain and Ireland, and Empress of India), indicate the agreement and conclusion reached by the parties thereof as follows:

The said E. H. Hewett Esq. and the said King and Chiefs of Opobo have agreed upon and concluded the following Articles (of the treaties).<sup>41</sup>

Regardless of the foregoing, it must be emphasized that these treaties of friendship, commerce and protection are negative sovereignty treaties because of their generic imperialistic nature and contents, and how they were enforced by Imperial Great Britain to undermine the natural sovereignty or natural statehood<sup>42</sup> of the Ancient Niger Delta Trading States.<sup>43</sup> For instance, there are such undermining articles, clauses, and terms and conditions of these treaties. They include the following:

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<sup>39</sup> G. I. Jones (n2), 243, captioned ‘Treaty between Great Britain and New Calabar, 1884’, signed at New Calabar, July 4, 1884, Preamble; G. N. S. Ogolo (n2), 94, ‘Preliminary Treaty with King Jaja and the Chiefs of Opobo, signed July 1, 1884’, Preamble and ‘Treaty with King and Chiefs of Opobo, signed at Opobo, December 19, 1884’, Preamble.

<sup>40</sup> G. I. Jones (n2), 243–244.

<sup>41</sup> G. N. S. Ogolo (n2), 93–96.

<sup>42</sup> E. A. G. Motos, *Western Imperialism: When Europe owned three-fifths of the World* (CreateSpace Independent Publishing Platform, 2017/2018); W. Rodney, *How Europe Underdeveloped Africa* (Panaf Publishing, 1972); Encyclopædia Britannica, ‘imperialism’ <<https://www.britannica.com/topic/imperialism>> Accessed September 2, 2022; A. James, *Sovereign Statehood: Basis of International Society (Key Concepts in International Relations)* (HarperCollins Publishers, 1986).

<sup>43</sup> C/f J. Ashley and S. J. Hubbard, *Negotiated Sovereignty: Working to Improve Tribal-State Relations* (Praeger, 2003); S. Sassen, *Losing Control?: Sovereignty in the Age of Globalization* (Columbia University Press, 2015).

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... 'refrain from entering into any correspondence, agreement or treaty with any foreign nation or power except with the knowledge and sanction of Her Britannic Majesty's Government'.<sup>44</sup>

... 'full and exclusive jurisdiction, civil and criminal, over British subjects and their property in the territory' of each Ancient Niger Delta Trading States, 'reserved for Her Britannic Majesty's Government, to be exercised by such Consular or other Officers of Her Majesty shall appoint for that purpose'.<sup>45</sup>

The same jurisdiction is likewise reserved to Her Majesty in the said territory' of each Ancient Niger Delta Trading States 'over foreign subjects enjoying British protection'...<sup>46</sup>

All disputes between the King and Chiefs' of each Ancient Niger Delta Trading States or between them and British or foreign traders or between these Kings and Chiefs and their neighbouring tribes, 'which cannot be settled amicably' between the parties, 'shall be submitted to British Consular or other Officers appointed by Her Majesty to exercise jurisdiction in the territories' of each Ancient Niger Delta Trading State, 'for arbitration and decision, or arrangement'.<sup>47</sup>

Besides, Imperialist Great Britain entered into the 1884/85 negative sovereignty treaties of protection with the Ancient Niger Delta Trading States, so as to achieve unhindered spread and practice of Christianity in the Trading States,<sup>48</sup> which helped her to exploit the resources of the Trading States and the rest of pre-colonial Nigeria. Albeit, Christianity eradicated certain orthodox African beliefs and practices, which contravene the doctrine and practices of

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<sup>44</sup> Article II, Treaty between Great Britain and Bonny, signed at Bonny, August 22, 1884, E. J. Alagoa and A. Fombo (n2), 120; Article II, 'Treaty between Great Britain and New Calabar, 1884', signed at New Calabar, July 4, 1884; G. I. Jones (n2), 244; Article II, Preliminary Treaty with King Jaja and the Chiefs of Opobo, signed July 1, 1884', and Article II, 'Treaty with King Jaja and Chiefs of Opobo, signed at Opobo, December 19, 1884'; G. N. S. Ogolo (n2), 94-95.

<sup>45</sup> Article III, Treaty between Great Britain and Bonny, signed at Bonny, August 22, 1884; E. J. Alagoa and A. Fombo (n2), 120; Article III, 'Treaty between Great Britain and New Calabar, 1884', signed at New Calabar, July 4, 1884; G. I. Jones (n2), 244; Article III, 'Treaty with King Jaja and Chiefs of Opobo, signed at Opobo, December 19, 1884'; G. N. S. Ogolo (n2), 95.

<sup>46</sup> *Ibid.*

<sup>47</sup> Article IV, Treaty between Great Britain and Bonny, signed at Bonny, August 22, 1884; E. J. Alagoa and A. Fombo (n2), 120; Article IV, 'Treaty between Great Britain and New Calabar, 1884', signed at New Calabar, July 4, 1884; G. I. Jones (n2), 244; Article IV, 'Treaty with King Jaja and Chiefs of Opobo, signed at Opobo, December 19, 1884'; G. N. S. Ogolo (n2), 95.

<sup>48</sup> Article VII, Treaty between Great Britain and Bonny, signed at Bonny, August 22, 1884; E. J. Alagoa and A. Fombo (n2), 121; Article VII, 'Treaty between Great Britain and New Calabar, 1884', signed at New Calabar, July 4, 1884; G. I. Jones (n2), 244; Article VII, 'Treaty with King Jaja and Chiefs of Opobo, signed at Opobo, December 19, 1884'; G. N. S. Ogolo (n2), 96.

Christendom, and introduced Western education and boosted the greater or wider advancement *vis-à-vis* general progress of civilization in British colonial Nigeria.<sup>49</sup>

By and large, Great Britain enforced the 1884/85 treaties of protection and other negative sovereignty treaties that she entered with various ethnic nationality areas of pre-colonial Nigeria in an imperialistic manner, and thereby transformed the entire pre-colonial Nigeria into a single British colonial possession.<sup>50</sup>

Forthwith, after the parties had concluded negotiations and signed these negative sovereignty treaties, Great Britain used the treaties to prove her dominant presence and in effect to establish her imperialistic title over the entire pre-colonial Nigeria, at the Berlin Conference, which was convened by the Imperialist European countries, to partition naturally sovereign areas of Africa into various colonial domains of these European imperialists.<sup>51</sup> At this Conference, which took place at Berlin, Germany, from November 15, 1884, to February 26, 1885, the competing Western imperialists established rules to amicably partition various parts of Africa into their respective colonial domains, and thereby divided the resources of these domains among themselves at the expense of the colonized African people.<sup>52</sup>

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<sup>49</sup> Article V, Treaty between Great Britain and Bonny, signed at Bonny, August 22, 1884; E. J. Alagoa and A. Fombo (n2), 120; Article V, 'Treaty between Great Britain and New Calabar, 1884', signed at New Calabar, July 4, 1884; G. I. Jones (n2), 244; Article V, 'Treaty with King Jaja and Chiefs of Opobo, signed at Opobo, December 19, 1884'; G. N. S. Ogolo (n2), 95; C/f C. Olowola, *African Traditional Religion and the Christian Faith: Theological Perspectives in Africa* (African Christian Press, 1993); D. O. Ogungbile (ed), *African Indigenous Religious Traditions in Local and Global Contexts: Perspectives on Nigeria: A Festschrift in Honour of Jacob K. Olupona* (Malthouse Press, 2015); L. Sanneh, *West African Christianity: The Religious Impact* (Orbis Books, 1983); M. Meredith, *The Fortunes of Africa: A 5000-Year History of Wealth, Greed and Endeavour* (Public Affairs, 2014); E. Brunner, *Christianity and Civilisation: Foundations & Specific Problems* (James Clarke and Co., 2009); E. J. Alagoa and A. Fombo (n2); 24–27; V. Mangalwadi, *The Book that Made Your World: How the Bible Created the Soul of Western Civilization* (Thomas Nelson, 2011).

<sup>50</sup> C/f J. Ashley and S. J. Hubbard, *Negotiated Sovereignty: Working to Improve Tribal-State Relations* (Praeger, 2003); S. Sassen, *Losing Control?: Sovereignty in the Age of Globalization* (Columbia University Press, 2015).

<sup>51</sup> T. Pakenham, *The Scramble for Africa* (Abacus, 1992/2003); G. Shepperson, 'The Centennial of the West African Conference of Berlin, 1884-1885' [1985], 46 (1), *Phylon*, 37–48; S. E. Crowe, *The Berlin West African Conference, 1884-85* (Greenwood Press, 1970); Encyclopedia.com, 'Berlin Conference: The General Act, Dual Character of the General Act, Implications, Consequences, Bibliography' <<https://www.encyclopedia.com/history/encyclopedias-almanacs-transcripts-and-maps/berlin-conference-0>>; P. Gathara (Aljazeera), 'Berlin 1884: Remembering the conference that divided Africa' <<https://www.aljazeera.com/opinions/2019/11/15/berlin-1884-remembering-the-conference-that-divided-africa>>both Accessed September 2, 2022.

<sup>52</sup> E. A. G. Motos, *Western Imperialism: When Europe owned three-fifths of the World* (CreateSpace Independent Publishing Platform, 2017/2018); Charles River Editors, *The Scramble for Africa: The History and Legacy of the Colonization of Africa by European Nations during the New Imperialism Era* (Charles River Editors, 2017); T. Pakenham, *The Scramble for Africa* (Abacus, 2002); Diego de Almagro (Spanish Conquistador), 'Partition of

Great Britain achieved her imperialist objective, as the Berlin Conference confirmed her dominant presence over the entire pre-colonial Nigeria. As a result, the decisions of the European imperialists at the Berlin Conference,<sup>53</sup> gave Imperial Great Britain the impetus to renege on her word, promise and/or commitment that she would protect the sovereignty of the Niger Delta Trading States and as well not interfere with the territories and hinterland markets of these Trading States.<sup>54</sup> Thus, forthwith, in 1885, Imperial Great Britain declared colonial protectionism over the entire erstwhile naturally sovereign Primordial Niger Delta Trading States and their mainland and hinterland ethnic nationality areas, by establishing the British Protectorate of the Niger Districts. This Protectorate was renamed Oil Rivers Protectorate in 1889, and thereafter also renamed the Niger Coast (Calabar) Protectorate, in 1893. In the process, in order to perpetrate her imperialistic agenda in Ancient Niger Delta, Imperial Great Britain appointed Commissioners and Consuls General for her Colonial Protectorates of the Oil Rivers and Niger Coast, such as Major (Sir) Claude Maxwell MacDonald (who was Consul General of the Oil Rivers Protectorate in 1891), and Sir Ralph Denham Rayment Moor (who was Consul General of the Niger Coast Protectorate in 1896).<sup>55</sup> Furthermore, in 1906, Imperial Great Britain amalgamated the Niger Coast Protectorate with her other colonial possessions in Southern Nigeria, to form the Colony and Protectorate of Southern Nigeria. Ultimately, in 1914, based on the dictates of positive international law, Imperial Britain amalgamated the Colony and Protectorate of Southern Nigeria with that of the North to form the Colony and Protectorate of Nigeria (modern Nigeria), governed by Frederick John Dealtry Lugard (Lord Lugard) as Governor-General, from (1914–1919).<sup>56</sup> This marked full-fledged British colonial dominion over the whole of modern Nigeria. In a nutshell, the negative sovereignty treaties, reinforced by the

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Africa' <<https://www.britannica.com/biography/Alfred-Sharpe>> Accessed September 2, 2022; A. Alao, *Natural Resources and Conflict in Africa: The Tragedy of Endowment* (University of Rochester Press, 2007).

<sup>53</sup> S. Förster S., (ed), *Bismarck, Europe and Africa: The Berlin Africa Conference, 1884-85, and the Onset of Partition* (Oxford University Press, 1989); S. Förster et al., *Bismarck, Europe and Africa: The Berlin Africa Conference, 1884-85, and the Onset of Partition* (The German Historical Institute, London/Oxford University Press, 1989); H. L. Gates, Jr. and K. A. Appiah (Encyclopedia of Africa), Berlin Conference of 1884 – 1885 (Oxford University Press, 2010); Encyclopaedia Britannica, 'Berlin West Africa Conference'

<<https://www.britannica.com/event/Berlin-West-Africa-Conference>> Accessed September 2, 2022.

<sup>54</sup> N. A. I. Waribere (n37), 53; M. H. Long, *Imperial Policies of Great Britain* [1928], 6 (2), Foreign Affairs, 245–268; S. Khilnani, 'The British Empire Was Much Worse Than You Realize'

<<https://www.newyorker.com/magazine/2022/04/04/the-british-empire-was-much-worse-than-you-realize-caroline-elkinss-legacy-of-violence>>; The Guardian, 'Let's end the myths of Britain's imperial past'

<<https://www.theguardian.com/books/2011/oct/19/end-myths-britains-imperial-past>> both Accessed September 2, 2022.

<sup>55</sup> E. J. Alagoa, *The Small Brave City-State: A History of Nembe Brass in the Niger Delta* (n22), 148; W. R. Crocker, *Nigeria; a Critique of British Colonial Administration* (Allen & Unwin, 1936/ Books for Libraries Press, 1971).

<sup>56</sup> *Ibid*; Lord F. J. D. Lugard, *The Dual Mandate in British Tropical Africa* (Routledge, 2005/Forgotten Books, 2018); M. Crowder (n7), 11, 196 and 207–208.

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decisions of the European imperialists at the 1884/85 Berlin Conference, made Imperial Great Britain to extend her dominance over her Ancient Niger Delta trading partners and other pre-colonial Nigerian ethnic nationalities (with which she had direct contact), in the form of British colonialism over the entire pre-colonial Nigeria, in 1914.<sup>57</sup>

Obviously therefore, the regime of positive international law, intensified by British gunboat diplomacy that was associated with it, enabled Imperial Great Britain to enforce her negative sovereignty treaties with her Ancient Niger Delta trading partners and other pre-colonial ethnic nationalities, with which Britain had direct contact, and thereby institutionalized British colonialism over the entire pre-colonial Nigeria.<sup>58</sup>

### **The 1884/85 British Negative Sovereignty Treaties with Ancient Trading States of the Niger Delta, towards and after Nigeria's Political Independence and the Advancement of Civilization in the Country**

In the course of formal British colonialism over the entire pre-colonial Nigeria, which commenced in 1914, positive international law reinforced by British gunboat diplomacy associated with it, prevailed to govern the affairs of the country. In the process, British colonialism gave rise to regionalism, based on regional governments, which thrived from about 1939 (in British colonial Nigeria) to 1967 (in post-colonial Nigeria).<sup>59</sup>

During the period of regionalism in Nigeria, the three hegemonic ethnic groups in the country, namely the Hausa-Fulani, Yoruba and Igbo tribes, and their leaders dominated Nigeria's politics and process of nation-building in their favour, to the detriment of the ethnic minorities (smaller tribes) of the country. At the time, the leaders of the three major tribes and premiers of their respective Regions, Sir Ahmadu Bello (the Sardauna of Sokoto), Chief Obafemi Awolowo and Dr Nnamdi Azikiwe, were the live-wire of the three dominant political parties in the three

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<sup>57</sup> Encyclopaedia Britannica, 'imperialism', <<https://www.britannica.com/topic/imperialism>> Accessed September 2, 2022; M. Crowder (n7), 188–206; B. O. Egbe and I. O. Okoi, 'Colonialism and Origin of Boundary Crisis in Nigeria' [2017], 14 (4), *LWATI: A Journal of Contemporary Research*, 95–110; M. Siollun, *What Britain Did to Nigeria: A Short History of Conquest and Rule* (Hurst Publishers, 2021).

<sup>58</sup> *Ibid*; A. Oyebo (n32); E. Lynam, *British Maps and Map-Makers (Britain in pictures)* (W. Collins, 1944); Stylesyndikat Books, *British Empire Journal: Great Britains Territories Colonies Map Atlas History 17<sup>th</sup> 18<sup>th</sup> Century Geography Art Gift Composition Notebook* (Stylesyndikat Books, 2018); N. O. Uluocha, 'The Cartographic Legacy of Colonial Administration in Nigeria', being a presentation delivered at the Symposium of Commission on the History of Cartography, International Cartographic Association (ICA) on 'Shifting Boundaries: Cartography in the 19<sup>th</sup> and 20<sup>th</sup> Centuries', at Portsmouth University, Portsmouth, United Kingdom, 10-12 September, 2008 <<https://history.icaci.org/wp-content/uploads/2016/09/Uluocha.pdf>>; T. Gashaw, 'Colonial Borders in Africa: Improper Design and its Impact on African Borderland Communities' <<https://africaupclose.wilsoncenter.org/colonial-borders-in-africa-improper-design-and-its-impact-on-african-borderland-communities/>> both Accessed September 2, 2022.

<sup>59</sup> E. J. Alagoa and A. A. Derefaka (eds) (n5), 333; E. T. Bristol-Alagbariya (n6), 52–53, 130 and 134.



Regions of Nigeria, namely the Northern, Western and Eastern regions. Respectively, these political parties were the Northern People's Congress (NPC, 1951–1966), the Action Group (AG, 1950–1966) and the National Council of Nigeria and the Cameroons (NCNC, 1944–1966). Although each of these political parties had national (countrywide) objectives in varying degrees, the interests of the three major hegemonic ethnic groups remained paramount in their affairs. Hence, the wishes and aspirations of the three dominant ethnic groups prevailed in their respective regions and the entire Nigerian polity.<sup>60</sup> So, among other negative effects, British colonialism in Nigeria gave rise to marginalization and neglect of the ethnic minorities by the three major tribes of the Nigerian polity.<sup>61</sup>

Consequently, during the Nigerian Independence Constitutional Conferences (NICCs), the ethnic minorities of the country started to agitate for a post-colonial Nigeria, which will fairly cater for their wellbeing. On this note, the ethnic minorities of the Delta region had to form movements to canvass their aspirations during the NICCs, which started from 1953/54 in Lagos and ended in 1957 and 1958 at the Lancaster House in London.<sup>62</sup> These ethnic minority movements include the Cross River, Ogoja and Rivers (COR) State movement, as well as the movement for a Separate Rivers State. During the NICCs, which took place at the Lancaster House, London, in 1957, the COR State movement was presented by Udo Udoma, while the movement for a Separate Rivers State, championed by the Rivers Chiefs and Peoples' Conference (RCPC) was presented by H. J. R. Dappa-Biriye.<sup>63</sup> Also, a political party of the ethnic minorities within the then Rivers Province, known as the Niger Delta Congress, propagated the hopes and aspirations of the people of the Rivers Province, led by the RCPC, for a Separate Rivers State, especially based on the 1884/85 negative sovereignty treaties between the Ancient Niger Delta Trading States and Imperialist Great Britain, through Her Britannic Majesty's Government. In the process, in the context of nation-building in British colonial Nigeria, the ethnic minorities of the Nigerian Delta region established their plight and predicament, as *inter alia* expressed in the report of the Henry Willink Commission of 1958, in the following words:

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<sup>60</sup> O. Nnoli, *Ethnic Politics in Nigeria* (Fourth Dimension Publishers, 1980); E. J. Alagoa and A. A. Derefaka (eds) (n5), 332–336; S. Azaike, *Inequities in Nigerian Politics* (Treasure Communications Resource, 2003); R. T. Suberu, *Ethnic Minority Conflicts and Governance in Nigeria* (Spectrum Books, 2003); R. T. Suberu, *Federalism and Ethnic Conflict in Nigeria* (United States Institute of Peace, 2001); S. E. Oyovbaire, *Federalism in Nigeria: A Study in the Development of the Nigerian State* (Palgrave Macmillan, 1985); E. T. Bristol-Alagbariya, 'Nigeria: The Role of Law in Nation-building' [2016], 1 (1), *UNIPORT Journal of Public Law*, 113–136, particularly 124–125, 132 and 134; O. Ikime (ed) (Historical Society of Nigeria), *Groundwork of Nigerian History* (Heinemann Educational Books (Nigeria), 2004), 410–481.

<sup>61</sup> E. J. Alagoa and A. A. Derefaka (eds) , (n5), 333 and 339–345.

<sup>62</sup> S. T. Hon, *Constitutional Law and Jurisprudence in Nigeria* (Pearl Publishers, 2004), 3–9; U. Udoma, *History and the Law of the Constitution of Nigeria* (Malthouse Press, 1994).

<sup>63</sup> U. Udoma (n62), 158, 166–168, 203, 206, 209, 254, 257 and 259; A. Etekpe *et al.*, *Harold Dappa-Biriye: His Contributions to Politics in Nigeria* (Onyoma Research Publications, 2003), especially xii–xvi, 13, 29, 30, 36, 41–63, 117 and 159. 21–80.

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We were impressed by arguments indicating that the needs of those who lived in the creeks and swamps of the Niger Delta are very different from those of the interior. We agree that it is easy for a Government or Legislature operating from the far inland to concern itself, or even fully understand, the problems of a territory where communications are so difficult, building so expensive and education so scanty.<sup>64</sup>

Members of the Henry Willink Commission, led by Rt Hon, Sir Henry Urmston Willink (a British Queen's Counsel, politician, public servant and former Vice Chancellor of Cambridge University), *inter alia* concluded their report as follows:

... we had no doubt that a feeling of neglect and a lack of understanding was wide- spread in both Regions (Western and Eastern Deltas). We consider that a case has been made out for special treatment of this area. This is a matter that requires special effort because it is poor, backward and neglected.<sup>65</sup>

Precisely, the Sir Henry Willink Commission clearly reported that the Niger Delta was 'poor, backward, and neglected', in the process of nation-building in British colonial Nigeria.<sup>66</sup>

It may be noted that due to the persistent agitation of the Niger Delta ethnic minorities during the NICCs, the Secretary of State for the Colonies of Great Britain, Alan Lennox-Boyd (1st Viscount Boyd of Merton), had to make a Special Statement on the 1884/85 negative sovereignty friendship, commerce and protection treaties, between Great Britain and the Ancient Niger Delta Trading States. The Statement of Secretary of State for the Colonies, published in the report of the 1958 Resumed NICC, is captioned 'Statement of the Secretary of State for the Colonies on the Treaties between the Crown and the Oil Rivers Chiefs'.<sup>67</sup>

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<sup>64</sup> M. T. Akobo *et al.* (Southern Minorities Movement)/The Willink Commission), NIGERIA Report of the Commission Appointed to Enquire into The Fears of Minorities and The Means of Allaying Them (Southern Minorities Movement [SMM] [reprint] 1996). The Southern Minorities Movement (SMM), Nigeria Report of the Commission Appointed to Enquire into the Fears of Minorities and the Means of Allaying Them or The Willink Commission Report (Her Majesty's Stationery Office (HMSO), 1958 (reprint by SMM, 1996), ii and 94.

<sup>65</sup> D. S. P. Alamieyeseigha, 'The Environmental Challenge of Developing the Niger Delta', <<http://www.gasandoil.com/goc/news/nta40214.htm>>; Report of the Technical Committee on the Niger Delta, chaired by Ledum Mittee, dated November 2008; UN Human Rights Office of the High Commissioner, 'United Nations Guide for Minorities' <<http://www.ohchr.org/EN/Issues/Minorities/Pages/MinoritiesGuide.aspx>>; UN General Assembly (UNGA), 'Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities' adopted by UNGA Resolution 47/135 of 18 December, 1992 <<http://www.un.org/documents/ga/res/47/a47r135.htm>> all Accessed September 2, 2022.

<sup>66</sup> M. T. Akobo *et al.* (Southern Minorities Movement)/The Willink Commission) (n64), ii and 94.

<sup>67</sup> Federal Republic of Nigeria (Federation of Nigeria), *Report by the Resumed Constitutional Conference, held in London in September and October, 1958, Presented by the Secretary of State for the Colonies to Parliament by Command of Her Majesty, November, 1958* (Federal Government Printer, 1958), Annex II, captioned 'Statement by the Secretary of State for the Colonies on the Treaties between the Crown and the Oil Rivers Chiefs', 37-38.

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Precisely, in the course of his Statement, Alan Lennox-Boyd, commended delegates of British Colonial Eastern region's ethnic minority COR area, namely Dr Udo Udoma and H. J. R. Dappa-Biriye, who made presentations to the 1957/58 NICCs, on the plight of the region's ethnic minorities. The presentation of the delegate of the RCPC, H. J. R. Dappa-Biriye, to these Conferences was basically on the 1884/85 negative sovereignty treaties of protection entered into by Great Britain and the Ancient Niger Delta Trading States. Regarding these treaties, Alan Lennox-Boyd, stated that they (the treaties) required careful and detailed consideration. He indicated that the strict legal position on the treaties was that they did not have 'standing in international law'; nevertheless, they were not worthless scraps of paper that created no obligations on Her Majesty's Government.<sup>68</sup> He further stated that the traditional rulers of the Ancient Niger Delta Trading States agreed to accept the advice of British authorities in the affairs of their respective states as follows:

Under the longer version, the Chiefs concerned entered into a number of specific obligations, and in particular agreed to assist British officers in the execution of their duties and to act on their advice in matters relating to the administration of justice, the development of resources of the country [each particular state], the interests of commerce and on other matters relating to peace, order and good government and what is called the general progress of civilization.<sup>69</sup>

In the circumstances, Alan Lennox-Boyd stated that efforts towards Nigeria's political independence were such that every inhabitant of the country was entitled to Her Majesty's protection. He declared that process towards self-government was not inconsistent with the Ancient Niger Delta treaties of protection, where Her Majesty's Government 'will soon be relinquishing its special responsibilities as the protecting power',<sup>70</sup> so as to grant full self-government to Nigeria, 'in the confident belief that there is nothing in the treaties [that are] inconsistent with this course'.<sup>71</sup>

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<sup>68</sup> *Ibid*, 37; C/f Article 1, UN Vienna Convention on the Law of Treaties, 1969, captioned 'Scope of the Present Convention' and Article 4 of the Convention captioned 'Non-retroactivity of the Present Convention'; W. L. Berrow *et al.*, *Hertslet's Commercial Treaties: A Collection of Treaties and Conventions, between Great Britain and Foreign Powers, and of the Laws, Decrees, Orders in Council, & c, Concerning the same, so far as they relate to Commerce and Navigation, Slavery, Extradition, Nationality, Copyright, Postal Matters, & c., and to Privileges and Interests of the Subjects of the High Contracting Parties* (His Majesty's Stationery Office, 1910-1925/Nabu Press, 2011); B. Attwood, *Empire and the Making of Native Title: Sovereignty, Property and Indigenous People* (Cambridge University Press, 2020).

<sup>69</sup> Federal Republic of Nigeria (Federation of Nigeria), *Report by the Resumed Constitutional Conference, held in London in September and October, 1958, ... Annex II*, captioned 'Statement by the Secretary of State for the Colonies on the Treaties between the Crown and the Oil Rivers Chiefs' (n67), 37-38.

<sup>70</sup> *Ibid*, 38

<sup>71</sup> *Ibid*, 38.

Consequently, this study would concentrate on the grant of political independence to British colonial Nigeria as a means of the advancement of civilization *vis-à-vis* general progress of civilization, through GG, in post-colonial (independent) Nigeria.<sup>72</sup>

Specifically, concerning the ethnic minority Niger Delta region (of the Trading States), the British colonial government recommended certain measures, which were designed to cater for the welfare of the people of the region within post-colonial Nigeria. Hence, some relevant outcomes of the NICCs, which include recommendations of the Willink Commission report, 1958, and certain constitutional provisions on human rights and the enforcement of these rights by the due process of law.<sup>73</sup> The main outcomes of the recommendations of the Willink Commission report, 1958, are a series of partial and palliative measures that were embarked by the Federal Government of Nigeria (FGN) from then onward. Hence, following the British colonial government's grant of political independence to Nigeria, in October 1960, the FGN established the defunct Niger Delta Development Board (NDDDB), in 1961, to initiate schemes to supplement normal development of the Delta region.<sup>74</sup> However, while its efforts were frustrated by the Federal Military Government (FMG), the NDDDB became a victim of the Nigerian Civil War of 1967–1970, after which it eventually became a moribund institution. Thereafter, in 1976, based on the developmental philosophy of the NDDDB, the FMG, led by General Olusegun Obasanjo, established the River Basins Development Authorities' (RBDA) system, by virtue of the River Basins Development Authorities Act (RBDAA).<sup>75</sup> In the process, the FMG created ten more RBDAs in other parts of the federation, and changed the name of the NDDDB to the Niger Delta River Basin Development Authority (NDBDA). Under the RBDA system, the NDBDA was undermined, as it was starved of funds, while most of the other ten RBDAs were generously funded by the Government.<sup>76</sup>

Other partial and palliative measures embarked by the FGN include various modes of revenue allocation associated with petroleum development operations in the oil-rich Niger Delta region, creation of south-south geopolitical ethnic minority states, and delineation of south-south

<sup>72</sup> *Ibid*, 37–38; F. W. Blackmar (n12).

<sup>73</sup> M. T. Akobo *et al.* (Southern Minorities Movement)/The Willink Commission) (n64), ii.

<sup>74</sup> E. T. Bristol-Alagbariya (n21), 118–119; C/f F. A. O., Schwarz, Nigeria: *The Tribes, the Nations, or the Race – The Politics of Independence*, (Massachusetts Institute of Technology [MIT] Press, 1965).

<sup>75</sup> River Basins Development Authorities Act, Cap R9, LFN 2004; A. T. Ogundele, A. T., 'River Basin Development Authorities in Nigeria: The Neglected Tools for National Development' [2019], 5 (3), *International Journal of Advanced Academic Research: Sciences, Technology and Engineering*, 39–49; A. J. Adegeye, 'Establishing River Basin Development Authorities as a Strategy for Nigerian Rural Development' [1982], 9 (4), *Agricultural Administration*, 301–311; C. J. Barrow, 'River Basin Development Planning and Management: A Critical Review. [1998], 26 (1), *World Development*, 171–186.

<sup>76</sup> E. T. Bristol-Alagbariya (2010 [n6]), 58–64; E. T. Bristol-Alagbariya (n21), 118–119; The Guardian Newspapers, 'Niger Delta Basin Authority gets new office complex' <<https://guardian.ng/property/niger-delta-basin-authority-gets-new-office-complex/>> Accessed September 2, 2022.

geopolitical ethnic minority zone.<sup>77</sup> Such other measures include establishment of the Oil Mineral Producing Areas Development Commission Decree (OMPADEC) and thereafter NDDC, and setting-up of the Technical Committee on the Niger Delta, chaired by Ledum Mittee.<sup>78</sup> However, so far, due to bad governance in Nigeria,<sup>79</sup> these partial and palliative measures have not been able to sufficiently address the plight and predicaments of the people and communities of the oil-rich ethnic minority Delta region. Hence, the persisting resource control movement of the region (premised on social justice, equity and fair play),<sup>80</sup> and thus true federalism in Nigeria.<sup>81</sup> By and large, based on the subject treaties of protection between Ancient

<sup>77</sup> InfoGuide Nigeria, 'South-South Geopolitical Zone in Nigeria, its States and their Economic Activities' <<https://infoguidenigeria.com/south-south-geopolitical-zone-in-nigeria-its-states-and-their-economic-activities/>>; My Guide, 'South South Region' <<https://www.myguidenigeria.com/regionalinfo/south-south-region>> both Accessed September 2, 2022; A. Ogbuigwe, *Offended: Legal Issues in the Niger Delta Struggle* (Anpez Centre for Environment and Development, 1999), especially 2–46.

<sup>78</sup> The OMPADEC Decree, No. 23 of 1992; A. K. Horsfall, *The OMPADEC Dream* (Inprint Publications, 1999); Niger-Delta Development Commission (Establishment Etc.) (NDDC) Act, No. 6, Laws of the Federation of Nigeria (LFN) 2000, Cap N86, LFN 2004; Niger Delta Development Commission (Establishment, Etc.) (NDDC) Amendment Act, 2017; Report of the Technical Committee on the Niger Delta, chaired by Ledum Mittee (n65); E. T. Bristol-Alagbariya (n21), 106–128.

<sup>79</sup> D. Kaufmann *et al.*, 'The Worldwide Governance Indicators: Methodology and Analytical Issues' [2010] *Global Economy and Development*, Brookings Institution, <[https://www.brookings.edu/wp-content/uploads/2016/06/09\\_wgi\\_kaufmann.pdf](https://www.brookings.edu/wp-content/uploads/2016/06/09_wgi_kaufmann.pdf)> Accessed September 2, 2022; T. G. Weiss, 'Governance, Good Governance and Global Governance: Conceptual and Actual Challenges' [2000], 21 (5), *Third World Quarterly*, 795–814.

<sup>80</sup> O. V. C. Okene (ed), *Readings in Law and Policy (Current Issues and Trends): (In Commemoration of the Golden Jubilee of Rivers State (1967–2017))* (Faculty of Law, Rivers State University, 2017), 129–144; E. T. Bristol-Alagbariya, *Participation in Petroleum Development: Towards Sustainable Community Development in the Niger Delta* (CEPMLP/DUP), 2010), 40–43; A. Ogbuigwe, *Legal Issues in the Niger Delta Resource Dilemma: A Collection of Essays* (Anpez Centre for Environment and Development, 2018) 7–10.

<sup>81</sup> M. S. Greve, *Real Federalism: Why It Matters, How It Could Happen: Why it Matters, How it Can Happen* (The Aei Press, 1999); A. A. Ikein *et al.*, *Oil, Democracy and the Promise of True Federalism in Nigeria* (University Press of America, 2008); Russian Academy of Sciences (ed), *Federalism in Africa. Problems and Perspectives* (MeaBooks Inc., 2016); A. A. Ikein and C. Briggs-Anigboh, *Oil and Fiscal Federalism in Nigeria: The Political Economy of Resource Allocation in a Developing Country* (Ashgate Publishing, 1998); F. E. Onah (ed), *Fiscal Federalism in Nigeria* (Great Ap Express Publishers/University of Nigeria Virtual Library, 2006); J. I. Elaigwu, *The Politics of Federalism in Nigeria* (Adonis & Abbey, 2007); S. A. Ogunwa, *Rebranding Federalism in Nigeria* (LAP LAMBERT Academic Publishing, 2013); O. Ibeanu and M. J. Kuna (eds), *Nigerian Federalism: Continuing Quest for Stability and Nation-Building* (Safari Books, 2016); A. Alabi, *Federalism and the future of states in Nigeria* (LAP LAMBERT Academic Publishing, 2019); A. I. Egwim, *The Dynamics of Federalism in Nigeria* (Palgrave Macmillan, 2020); homepage of the Forum of Federations (The Global Network on Federalism and Devolved Governance) <<https://forumfed.org/>>; Oxford Reference, 'Overview Federalism' <<https://www.oxfordreference.com/view/10.1093/oi/authority.20110803095813749>> both Accessed September 2, 2022.

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Niger Delta Trading States and Great Britain, these States and the rest of the oil-rich Niger Delta region (South-South ethnic minority zone of Nigeria) tenaciously believe that they were wrongly incorporated into independent Nigeria by the British colonial government, which justifies and strengthens their resource control movement in the country.<sup>82</sup>

Thus, given the persisting nature of the resource control struggle of the oil-rich ethnic minority Delta region as a fall-out of the 1884/85 negative sovereignty treaties of protection between the Ancient Niger Delta Trading States and Imperialist Great Britain and ongoing agitation of other separatist groups in the realm of divergence of centrifugal forces from centripetal forces in Nigeria, there is a need for improvement of the wellbeing of the country's citizens and citizen-groups, through good governance (GG).<sup>83</sup>

It is pertinent to indicate at this juncture that towards the grant of political independence to Nigeria, a core and overriding objective, will or purpose of the British colonial government and independent Nigeria's founding fathers, which include the country's leaders of thought, was to have a country that would play a great part in global affairs. Hence, from the background of how to allay the fears of the ethnic minorities of Nigeria, the Henry Willink Commission report of 1958, states as follows:

The minorities who have appeared before us have talked of separation as a remedy for their troubles. But unity might have the same effect, and though unity cannot be manufactured by a Commission, machinery can be devised which aims rather at holding the state together than at dividing it. We believe that while the first object of our recommendations must be to allay fears, with this should be combined a second, to maintain the unity of Nigeria and thus enable the Federation to play a great part in world affairs; this, we think, can best be done by balancing power within the country so that a majority may be less tempted to use power solely for its own advantage. With these objectives in view we have, ..., borne in mind throughout our enquiry the thought of the Federal Government as the successor to those restraining functions, the prospect of whose disappearance has been so fruitful a source of fear.<sup>84</sup>

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<sup>82</sup> A. Etekepe *et al.* (n63), 10 and 56–57; E. T. Bristol-Alagbariya (n2).

<sup>83</sup> Z. Adangor, 'Separatist Agitations and the Search for Political Stability in Nigeria' [2017], 3 (1), *Donnish Journal of Law and Conflict Resolution*, 001–017; O. Olasupo *et al.*, 'Nationalism and Nationalist Agitation in Africa: the Nigerian Trajectory' [2017], 44, *The Review of Black Political Economy*, 261–283; R. Gildea, *Empires of the Mind: The Colonial Past and the Politics of the Present* (Cambridge University Press, 2019); K. Maier, *This House Has Fallen: Nigeria in Crisis* (Western Press Books, 2000); S. Oko (Vanguard Newspaper), 'Updated: UN working group tells Nigeria to unconditionally release, compensate Nnamdi Kanu' <<https://www.vanguardngr.com/2022/07/un-working-group-tells-nigeria-to-unconditionally-release-compensate-nnamdi-kanu/>> Accessed September 2, 2022.

<sup>84</sup> M. T. Akobo *et al.* (Southern Minorities Movement)/The Willink Commission) (n64), 88; Federal Republic of Nigeria (Federation of Nigeria), *Report by the Resumed Constitutional Conference, held in London in September*

The foregoing aspect of the recommendation of the Henry Willink Commission report of 1958, underscores the need for a united and prosperous post-colonial Nigeria, based on GG and federalism, as a system of devolved governance in multi-ethnic and multi-facet Nigeria,<sup>85</sup> to be championed by the Federal Government, as a way to advance civilization in the country.

It may be highlighted that the meaning of the term ‘civilization’ has been changing over time. However, civilization is commonly used to describe human societies with a high level of human social and cultural development and organization, in a way that distinguishes less-developed, developing and advanced countries or societies of the world.<sup>86</sup> No doubt, GG is a landmark instrument of civilization, progress and prosperity in countries around the world.<sup>87</sup>

The fundamental need for GG is particularly because bad governance in well over six decades of independent Nigeria is essentially internal, which may be called internal colonization,<sup>88</sup> and no longer external as was the case of British colonial Nigeria. Hence, while lamenting that bad governance was impacting negatively on the international image of independent Nigeria and Africa at large before his demise, the famous anti-apartheid activist and first black President of

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*and October, 1958, ... Annex II, captioned ‘Statement by the Secretary of State for the Colonies on the Treaties between the Crown and the Oil Rivers Chiefs’ (n67), 37–38.*

<sup>85</sup> J. I. Elaigwu, *The Nigerian Federation: Its Foundation and Future Prospects* (Department of Publications & Library Services, National Council on Intergovernmental Relations [NCIR] Monograph Series, 1994); M. S. Greve (n81); A. A. Ikein *et al.* (n81); Russian Academy of Sciences (ed) (n81); F. E. Onah (ed) (n81); J. I. Elaigwu (n81); S. A. Ogunwa (n81); O. Ibeanu and M. J. Kuna (eds) (n81); A. I. Egwim, *The Dynamics of Federalism in Nigeria* (n81); homepage of the Forum of Federations (The Global Network on Federalism and Devolved Governance) (n81).

<sup>86</sup> World History Encyclopedia, ‘Civilization’ <<https://www.worldhistory.org/civilization/>> Accessed September 2, 2022; E. Anthony *et al.*, ‘Fiscal Federalism, Sub-National Revolts and Internal Colonialism in Nigeria’ [2021], 15 (2), *African Journal of Political Science and International Relations*, 54–64; M. N. Suleiman and M. A. Karim, ‘Cycle of Bad Governance and Corruption: The Rise of Boko Haram in Nigeria’ [2015], *SAGE Open*, 1–11.

<sup>87</sup> S. Agere, *Promoting Good Governance: Principles, Practices and Perspectives (Managing the Public Service: Strategies for Improvement Series)* (Commonwealth Secretariat, 2000); W. Tanthapanichakoon, *The Charismatic Leader Lee Kuan Yew and the Rise of Singapore as an Asian Tiger: How His Exceptional Leadership turned Singapore into One of Wealthiest Countries in the World* (Kindle Edition, 2015); L. K. Yew, *From Third World to First: Singapore and the Asian Economic Boom* (HarperBus, 2011); A. Brown, *The Myth of the Strong Leader: Political Leadership in the Modern Age* (Bodley Head, 2014); H. Kissinger, *Leadership: Six Studies in World Strategy* (Penguin Books, 2022).

<sup>88</sup> E. Anthony *et al.*, ‘Fiscal Federalism, Sub-National Revolts and Internal Colonialism in Nigeria’ [2021], 15 (2), *African Journal of Political Science and International Relations*, 54–64; T. Adeniyi, ‘Between Internal Colonialism And Modern Civilisation’ <<https://tribuneonline.com/between-internal-colonialism-and-modern-civilisation/>> Accessed September 2, 2022.

South Africa, Nelson Rolihlahla Mandela (18 July, 1918 – 5 December, 2013), remarked as follows:

The world will never respect Africa until Nigeria earns that respect. The black people of the world are looking up to Nigeria to be a source of pride and confidence. Every Nigerian citizen should be made to understand this.<sup>89</sup>

As bad governance, which continues to truncate the economic development, overall advancement and wellbeing of Nigeria, may be associated with every negative or deplorable circumstance, situation or evil in a country, post-colonial Nigeria is seriously in need of honest and God-fearing political leaders,<sup>90</sup> to advance civilization in the country. As such, given the prevailing consistent failure of political leadership in independent Nigeria, which is heralding a violent revolution,<sup>91</sup> there is a compelling necessity and/or an urgent need for GG in Nigeria. This is because GG may be associated with every good and commendable circumstance or situation of a country.<sup>92</sup> Thus, GG should serve as a means of furnishing the social contract of governance between government and the governed and thereby enable government to address the age-old problems and challenges of the oil-rich ethnic minority Delta region and those of other citizen-groups of the country.<sup>93</sup> By and large, given that GG and SD are indivisible, such that SD

<sup>89</sup> Opera News, ‘The world will never respect Africa until Nigeria earns that respect-late Nelson Mandela’ <<https://ng.opera.news/ng/en/politics/5addc8e8da61771cc8c32ceb8a968e8f>> Accessed September 2, 2022.

<sup>90</sup> H. Addink, *Good Governance: Concept and Context* (Oxford University Press, 2019); A. Mungiu-Pippidi, *The Quest for Good Governance: How Societies Develop Control of Corruption* (Cambridge University Press, 2015); J. M. Foltz, *The Endemic Influence of Evil Government as Illustrated in Minorca* (Wentworth Press, 2019); M. Ayodele Coker and M. E. George-Genyi, ‘Bad Governance: The Bane of Peace, Security and Sustainable Development of Nigeria’ [2014], 3 (5), *International Journal of Development and Sustainability*, 1121–1146; Daily Times, ‘Bad governance is the root of all national evils’ <<https://dailytimes.com.pk/20703/bad-governance-is-the-root-of-all-national-evils/>> Accessed September 2, 2022; D. Runcorn, *Fear and Trust: God-centred Leadership* (Society for Promoting Christian Knowledge [SPCK] Publishing, 2011); I. Amundsen, *Good Governance in Nigeria A Study in Political Economy and Donor Support* (Norwegian Agency for Development Cooperation, 2010); T. Jackson, *Prosperity without Growth?: The Transition to a Sustainable Economy* (Sustainable Development Commission, 2009); T. Jackson, *Prosperity without Growth: Economics for a Finite Planet* (Earthscan, 2011); T. Jackson, *Prosperity without Growth: Foundations for the Economy of Tomorrow* (Routledge, 2016).

<sup>91</sup> C. Achebe, *The Trouble with Nigeria* (Fourth Dimension Publishers, 1983) particularly 1–3; A. Nwuzor, *Revolution in Wazobia: The Revolutionary Vision of the Triumph of a Triumvirate* (Ann's Indulgence, 2013); D. Richards, *Revolutions in World History* (Routledge, 2004); S. K. Sanderson, *Revolutions: A Worldwide Introduction to Social and Political Contention* (Routledge, 2010); E. Untermann, *The World's Revolutions* (Forgotten Books, 2018).

<sup>92</sup> H. Addink (n90); S. Agere (n87); W. Tanthapanichakoon (n87); L. K. Yew (n87); B. C. Smith, *Good Governance and Development* (Palgrave Macmillan, 2007).

<sup>93</sup> The Preamble and Section 14 (2) (b), 1999 CFRN (as amended); Section 14 of the Constitution is captioned ‘The Government and the People’; M. Lessonoff (ed), (n12); J. Rousseau, *The Social Contract* (Wordsworth Classics of



cannot be achieved without GG,<sup>94</sup> GG, premised on ethos of natural law (such as truth, honesty, integrity, rectitude, fairness, social justice and other morally-inclined behaviours),<sup>95</sup> and the social contract of governance,<sup>96</sup> is capable of advancing civilization in Nigeria, by ensuring the wellbeing of Nigerian citizens, alongside engendering political stability, sustainable peace, sound, just and equitable sustainable development (SD) and overall advancement of the country.<sup>97</sup>

## CONCLUSION AND RECOMMENDATIONS

So far, this socio-legal study has examined the 1884/85 imperialistic *vis-à-vis* negative sovereignty treaties of friendship, commerce and protection, which were entered into by Great Britain and the Ancient Niger Delta Trading States, from the background of positive international law, which governed relations of the parties, as well as within the framework of the realities of the oil-rich ethnic minority Delta region in post-colonial (independent) Nigeria.

These treaties of ‘friendship, commerce and protection’, simply called ‘treaties of protection’ or ‘protection treaties’ are negative sovereignty treaties because they are imperialistic and thus promoted Western imperialism, actualized by Imperial Britain, that undermined the natural sovereignty or natural sovereign status of the Ancient Niger Delta Trading States. Based on such negative sovereignty treaties between Imperial Britain and various primordial Nigerian ethnic nationality areas with which the British established contact and the decisions of the European

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*World Literature*) (Wordsworth Editions, 1998); J. Rousseau, *The Social Contract or Principles of Political Right* (Aziloth Books, 2011); J. Rousseau and G. D. H. Cole (n12); J. Rousseau and Neville Jason, *The Social Contract* (Naxos AudioBooks, 2015); J. Rousseau and V. Gourevitch, *Rousseau: The Social Contract and Other Later Political Writings* (Cambridge University Press, 2019); McCombs School of Business, ‘Social Contract Theory’ <<https://ethicsunwrapped.utexas.edu/glossary/social-contract-theory>> Accessed September 2, 2022.

<sup>94</sup> *Per* the Seventh UN Secretary-General (1 January, 1997 – 31 December, 2006), Kofi Annan, UN, ‘Meetings Coverage and Press Releases: Good Governance Essential to Development, Prosperity, Peace, Secretary-General Tells International Conference, Press Release SG/SM/6291/DEV/2166’ (n14); K. Ginther *et al.* (eds) (n14); M. C. Segger and A. Khalifan, *Sustainable Development Law: Principles, Practices, and Prospects* (Oxford University Press, 2004).

<sup>95</sup> E. T. Bristol-Alagbariya (n14 [2021]), 17, 85–86 and 105,

<sup>96</sup> A. Passerin d’Entrèves and C. J. Nederman (n11); P. E. Sigmund (n11); M. H. Kramer (n11); J. Budziszewski (n11); C. E. Rice (n11); J. D. Breshears (n11); B. W. Johnson (n11); G. K. Meffe (Savannah River Ecology Laboratory, Universality of Georgia) (n11).

<sup>97</sup> World Commission on Environment and Development (WCED) (n14), x–23, 40 and 43, particularly 9; P. B. Corcoran (ed) (n14); UN Association of Australia (UNAA) (n14); homepage of the Earth Charter (Earth Charter Initiative) (n14); UN, ‘Meetings Coverage and Press Releases: Good Governance Essential to Development, Prosperity, Peace, Secretary-General Tells International Conference, Press Release SG/SM/6291/DEV/2166’ (n14); K. Ginther *et al.* (eds) (n14); E. T. Bristol-Alagbariya (n13); G. Ayre and R. Callway (n14); J. F. Sachs (14); A. A. Mekonin (n14); J. Blewitt (n14); N. Roorda (n14); F. W. Blackmar (n12).

imperialist powers at the Berlin Conference, Imperial Britain undermined the natural sovereignty of these ethnic nationality areas and introduced British protectionism and eventually, British colonialism over the entire pre-colonial Nigeria.

The study identifies the genuine needs, reasons or justifications of the parties (Ancient Niger Delta Trading States and Great Britain) that made them enter into the treaties of protection. Such needs, reasons or justifications include the fact that the treaties were entered into by the parties to maintain and strengthen their existing friendly relations. Imperialist Great Britain also designed these negative sovereignty protection treaties to promote administration of justice, development of resources, as well as in the interest of commerce, or any other matter relating to peace, order, good government and the general progress of civilization in the respective Ancient Niger Delta Trading States. Besides, both parties needed to protect their mutual direct trading relations at the time. It may be recalled that from the 15<sup>th</sup> Century AD, when the Ancient Niger Delta Trading States established relations with the Western European powers (beginning with the Portuguese), such relations were governed by proto natural law, based on equality and fairness, as distinct from the subsequent era of positive international law, which promoted and justified might (the use of force and other ominous and fratricidal forms of power play) in international relations. Put differently, during the era of proto-natural law (which governed relations between and among the Ancient Niger Delta Trading States and their Western European trading partners operating in the Niger Delta region from about the 15<sup>th</sup> Century AD to about the 18<sup>th</sup> Century AD), truth, fair play, social justice and other morally-inclined behaviours governed relations between and among sovereign states. On the other hand, during the succeeding regime of positive international law (an aspect of positive law, which governed relations between and among the said parties, from about the second half of the 19<sup>th</sup> Century AD onwards), might was right and thus power and might governed relations between and among them, operating in the Niger Delta region.

The protection treaties, considered by the Ancient Niger Delta Trading States to have been entered into on grounds of fair play, were enforced by Great Britain in a dictatorial manner that subjugated the sovereignty of the Trading States to imperialistic whims and caprices of Great Britain. As such, the treaties promoted the spread and practice of Christianity, which helped Great Britain to exploit the resources of the Trading States and the rest of pre-colonial Nigeria, through British imperial protectionism and colonialism. Albeit, Christianity eradicated certain orthodox African beliefs and practices, which contravene the doctrine and practices of Christendom, and introduced Western education and also promoted the greater or wider advancement *vis-à-vis* general progress of civilization in British colonial Nigeria. Nevertheless, the treaties, governed by positive international law, and boosted by British gunboat diplomacy associated with it, were clearly enforced in an imperialist manner, to the detriment of the sovereignty *vis-à-vis* natural sovereign statehood of the Trading States.

By and large, the study discussed how the regime of positive international law, which prevailed during the period of the negative sovereignty treaties, transformed the hitherto friendly relations

that existed between the parties to the treaties in a draconian manner and ushered in British imperial protectionism and subsequently British colonialism throughout the pre-colonial ethnic nationality areas that made up modern Nigeria. It demonstrated that these negative sovereignty treaties, fortified by the decisions of the European imperialists at the 1884/85 Berlin Conference, made Imperialist Great Britain to extend her sovereign power and dominion over her Ancient Niger Delta trading partners and other pre-colonial ethnic nationalities with which Great Britain had direct contact, consequent upon which she (Imperialist Great Britain) formally colonized the entire pre-colonial Nigeria. Based on a series of political amalgamation embarked upon by Great Britain, she, in 1914, created modern Nigeria from the entire pre-colonial ethnic nationality areas that made up the country. Eventually, British colonial government granted political independence to Nigeria, in October 1960.

Besides, the study examined the agitation of the ethnic minorities of the Delta region during the Nigerian Independence Constitutional Conferences (NICCs), particularly on the basis of the subject 1884/85 negative sovereignty protection treaties, and arrived at the finding that the wellbeing of these ethnic minorities is still deplorable in contemporary (post-colonial) Nigeria, due to bad governance in the country. Furthermore, given the persisting resource control movement of the oil-rich ethnic minority Delta region as a fall-out of the 1884/85 negative sovereignty protection treaties and ongoing agitation of other separatist groups in the realm of divergence of centrifugal forces from centripetal forces in Nigeria, we accordingly arrived at the finding and recommendation that there is a need for the advancement of civilization in the country, by way of sustainable improvement of the wellbeing of the citizens and citizen-groups, through GG. It is also the finding of this study that based on the subject treaties of protection between Ancient Niger Delta Trading States and Great Britain, these States and the rest of the oil-rich Niger Delta region (South-South ethnic minority zone of Nigeria) firmly believe that they were wrongly incorporated into independent Nigeria by the British colonial government, which justifies and strengthens their resource control movement anchored on social justice, equity and fairness in the country. Hence, it is our finding and we so recommend that in accordance with the common overriding aspiration of the British colonial government and the founding fathers of independent Nigeria, there is a cardinal and exceptional need for GG, premised on true federalism, in contemporary Nigeria.

Obviously, GG, promoted by ethos of natural law and the social contract of governance, is a landmark instrument of civilization, progress and prosperity in countries around the world. It is therefore the finding and conclusion of this study that the obligation of citizens to obey their government under natural law and the social contract of governance is contingent on government's corresponding obligation to protect the rights, including natural rights, of the citizens. Hence, GG is a means towards the improvement of the wellbeing of Nigerian citizens, particularly the security and welfare of the citizens, and the wellbeing of Nigeria at large. GG is a means towards political stability, sustainable peace, sound, just and equitable SD and overall advancement of Nigeria.

Independent Nigeria is gravely plagued by consistent failure of political leadership, such that the country on the verge of witnessing a violent revolution. Thus, we identified that the most urgent need for GG in independent Nigeria is mainly because bad governance in the country is internal, which may be called internal colonization, and no longer external, as was the case of British colonial Nigeria. Put differently, after well over six decades of the attainment of political independence from Great Britain, Nigeria is ironically still far away from enthroning GG. Bad governance continues to truncate the economic development, overall advancement and wellbeing of post-colonial Nigeria, as well as the country's good image in the international community. Thus, given that bad governance may be associated with every negative or deplorable circumstance, situation or evil in a country, Nigeria is seriously in need of honest and God-fearing political leaders, to advance civilization, through GG, in the country.

We therefore conclude, insist and recommend that there is an utmost necessity and so an urgent fundamental and crucial need for GG in Nigeria, to ensure the advancement of civilization, through social and cultural development and organization, towards generic progress and prosperity, in a way that would sufficiently address the protracted problems and challenges of the oil-rich ethnic minority Delta region and those of other citizen-groups of the country. Moreover, given that GG and SD are indivisible, such that SD cannot be achieved without GG, we recommend that Nigerians should endeavour to enthrone GG, to guarantee their wellbeing and the wellbeing of their country in the foregoing and other ways, towards overall advancement of the country, through political stability, sustainable peace, and sound, just and equitable SD.