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## The Centripetal Spatial Vote Distribution Requirement in Presidential Elections: The Cases of Nigeria and Indonesia<sup>1</sup>

### Abstract

The principal aim of this article is to explain the specificity of the requirement for a spatial distribution of votes in presidential elections – an institution that has existed in Nigeria since 1979 and in Indonesia since 2001. It also seeks to describe the political conditions which contributed to that institution's introduction and functioning in those two countries. The article will end with a comparison between the two cases, including a discussion of the present differences between them. The article will also contain a preliminary appraisal of whether the existence of the requirement in question is helping to reduce the level of conflictive behaviour in relations between ethnic groups in the multi-ethnic societies of Nigeria and Indonesia.

**Key words:** spatial vote distribution requirement, presidential elections, Nigeria, Indonesia, power-sharing, centripetalism, centripetal

### 1. Introduction

In the Nigerian and Indonesian political systems, often referred to as centripetal systems,<sup>2</sup> the candidate for the presidential office who has obtained the greatest number of votes must satisfy a constitutionally mandated spatial distribution of those votes, i.e., to secure a minimal

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\* Center for the Research on Multiethnic Societies, Institute of Mediterranean and Oriental Cultures, Polish Academy of Sciences, e-mail: krzysztofttrzcinski@tlen.pl.

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<sup>2</sup> For more on this subject, see Krzysztof Trzciński, 'Centripetalizm – integrujący system polityczny dla państw wieloetnicznych. Zarys teorii empirycznej' ['Centripetalism – An Integrative Political System for Multiethnic Countries: An Outline of the Empirical Theory'], *Studia Polityczne* [Political Studies], Vol. 39, No. 3, 2015, pp. 183–213.

measure of support, defined in percentage terms, in a significant number of basic units of territorial division: a minimum of 25% of votes cast in at least 2/3 of all states (in the case of Nigeria) or at least 20% of votes in half of all provinces (in the case of Indonesia). In addition to those two countries, the institution of centripetalism exists only in Kenya.<sup>3</sup> This requirement is intended to make electoral victory easier to attain for those candidates whose views and political acts (especially in questions that are sensitive for individual ethnic groups), are of a moderate character and which serve in multi-segmental (especially multi-ethnic) societies to build and maintain good relations between ethnic segments. As has been noted by Donald L. Horowitz, the leading scholar and expert on political problems of multi-segmental societies,<sup>4</sup> the requirement of attaining a spatial distribution of votes in presidential elections is an example of an arrangement helping segments represented by politicians to exhibit non-conflicting or less-conflicting behaviour with regard to one another.

The requirement of attaining a spatial distribution of votes in presidential elections is recognized as an institution of the power-sharing type and, more specifically, of its centripetal model (also called “integrative power-sharing”). Two models of inter-segmental (especially inter-ethnic) power-sharing are distinguished and opposed to each other in the abundant literature on the subject: consociationalism and centripetalism.<sup>5</sup> Thus far, centripetalism has been fully implemented only in Nigeria and Indonesia. Centripetalism presupposes the possibility of political integration of the groups’ elites above segmental (especially ethnic) divisions, thus weakening the importance of the latter.

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<sup>3</sup> The present article is based on an earlier one published in Polish (Krzysztof Trzcíński, ‘Wymóg uzyskania terytorialnego rozłożenia głosów (poparcia) w wyborach prezydenckich’ [‘Spatial Vote Distribution Requirement in Presidential Elections’], *Athenaeum*, Vol. 49, 2016, pp. 113–137), which contains, among other things, a discussion of the case of Kenya, but which does not examine the requirement in question in the context of centripetalism and power-sharing.

<sup>4</sup> D.L. Horowitz, *Ethnic Groups in Conflict*, Berkeley: University of California Press, 1985, p. 647.

<sup>5</sup> T.D. Sisk, *Power Sharing and International Mediation in Ethnic Conflicts*, Washington DC: United States Institute of Peace, 1996; D.L. Horowitz, ‘Ethnic Power Sharing: Three Big Problems’, *Journal of Democracy*, Vol. 25, No. 2, pp. 5–20; S. Wolff, ‘Consociationalism, Power Sharing, and Politics at the Center’ in *The International Studies Encyclopedia*, Vol. 2, R.A. Denemark (ed.), Oxford: Wiley-Blackwell, 2010, pp. 535–556; B. Reilly, *Democracy and Diversity: Political Engineering in the Asia-Pacific*, Oxford: Oxford University Press, 2007; M. Basedau, ‘Managing Ethnic Conflict: The Menu of Institutional Engineering’, GIGA Working Papers, Issue 171, 2011, pp. 1–29.

Centripetalism by definition promotes ethnically neutral legal practices concerning the status of individuals and groups in multi-segmental conditions – something that is supposed to strengthen the process of integration, the reaching of which is the purpose of centripetal institutions. Empirical centripetalism (Nigerian and Indonesian) is made up of the following institutional arrangements:<sup>6</sup> a territorial structure within the framework of which large ethnic groups are “broken down” so their members live in distinct, preferably multi-ethnic territorial and administrative units – something that is supposed make the elites of one and the same large group representing various regions compete with each other, for example for funds from the central budget; supra-regional and inter-ethnic political parties required to form ethnically heterogeneous lists of candidates in different elections; and the constitutional requirement for candidates in presidential elections to obtain a spatial distribution of votes, the fulfillment of which is necessary to assume the office of president.<sup>7</sup>

The principal aim of this article is to explain the specificity of the requirement for a spatial distribution of votes in presidential elections – an institution that has existed in Nigeria since 1979 and in Indonesia since 2001. It also seeks to describe the political conditions which contributed to that institution’s introduction and functioning in those two countries. The article will end with a comparison between the two cases, including a discussion of the present differences between them. The article will also

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<sup>6</sup> Reilly, *Democracy and Diversity...*, pp. 83–91; B. Reilly, ‘Centripetalism’ in *Routledge Handbook of Ethnic Conflict*, K. Cordell and S. Wolff (eds), London: Routledge, 2011, pp. 291–295; B. Reilly, ‘Centripetalism: Cooperation, Accommodation, and Integration’ in *Conflict Management in Divided Societies: Theories and Practice*, S. Wolff and Ch. Yakinthou (eds), New York: Routledge, 2011, pp. 57–64.

<sup>7</sup> The fourth element of centripetalism is mentioned in the literature – the use of so-called preferential voting, in the form of either a single transferable vote or an alternative vote, in parliamentary elections (especially to the lower chamber). Such voting, through the ranking of candidates, makes it possible for voters to indicate preferences among candidates of different parties. In the case of centripetalism, the aim of such voting would be to reduce chances of the election to parliament of politicians showing little restraint in their political views and actions, particularly with regard to inter-segmental relations. Preferential voting systems functioned for a time in Sri Lanka, Fiji and in Papua New Guinea, among other places. See Reilly, *Democracy and Diversity...*, pp. 115–118; A. McCulloch, ‘Does Moderation Pay? Centripetalism in Deeply Divided Societies’, *Ethnopolitics*, Vol. 12, No. 2, 2013, pp. 111–132; A. McCulloch, ‘The Track Record of Centripetalism in Deeply Divided Places’ in *Power-Sharing in Deeply Divided Places*, J. McEvoy and B. O’Leary (eds), Philadelphia: University of Pennsylvania Press, 2013, pp. 94–111.

contain a preliminary appraisal of whether the existence of the requirement in question is helping to reduce the level of conflictive behaviour in relations between ethnic groups in the multi-ethnic societies of Nigeria and Indonesia.

## **2. The context of the introduction of the requirement for a spatial distribution of votes in the presidential elections in Nigeria and Indonesia**

Before explaining what the institution of the requirement for a spatial distribution of votes in presidential elections consists of, the specific political conditions in Nigeria and Indonesia that have contributed to that institution's introduction and functioning must be identified.

### **2.1. Nigeria and its political situation**

Nigeria is the most important state on the African continent, given the size of its economy,<sup>8</sup> and also the most populous. Its population reached about 192 million in 2017, according to estimates, and this makes it the world's seventh most populous state.<sup>9</sup> Nigeria is also a vast country with an area of nearly 924,000 km<sup>2</sup>. It is inhabited by members of about 250<sup>10</sup> ethnic groups,<sup>11</sup> the largest of which are the Hausa-Fulani (about 29% of Nigeria's population), the Yoruba (about 21%), Igbo (about 18%) and the

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<sup>8</sup> According to the estimates of the International Monetary Fund (IMF), Nigeria's nominal GDP in 2016 amounted to about 405 billion USD, which made this country the world's 27<sup>th</sup> largest economy and the largest in Africa. See International Monetary Fund, World Economic Outlook Database, Washington DC, October 2017:

<http://www.imf.org/external/pubs/ft/weo/2017/02/weodata/weorept.aspx> (accessed 29.11.2017).

<sup>9</sup> Worldometers, Population in 2017: Nigeria: <http://www.worldometers.info/world-population/nigeria-population> (accessed 14.11.2017).

<sup>10</sup> Encyclopedia of the Nations, Nigeria:

<http://www.nationsencyclopedia.com/economies/Africa/Nigeria.html> (accessed 10.10.2017).

<sup>11</sup> The term "ethnic group" is understood by the author as a group of people who see themselves as a distinct cultural community; who often share a common language, religion, kinship, and/or physical characteristics (such as skin color); and who tend to harbor negative and hostile feelings toward members of other ethnic groups, as defined in A. Lijphart, 'Multiethnic Democracy' in *The Encyclopedia of Democracy*, Vol. 3, S.M. Lipset (ed.), London: Routledge, 1995, p. 853.

Ijaw (about 10%).<sup>12</sup> As many as 522 languages are spoken in Nigeria,<sup>13</sup> although the sole official language is English. It is estimated that about 50% of Nigeria's inhabitants are Muslims, who live mainly in the north of the country, while Christians make up 40% of the population and live mostly in the south of the country.<sup>14</sup> About 10% of Nigerians follow indigenous beliefs.<sup>15</sup>

After gaining independence in 1960, Nigeria functioned as a federation of three regions: The North (dominated by the mostly Muslim Hausa-Fulani), the West (dominated by the mostly Christian Yoruba) and the East (dominated by the mostly Christian Igbo). Even though in each region one ethnic group was predominant, all were inhabited by many smaller groups. The three largest groups had their own ethnic parties, which competed aggressively with each other at the central government level. As a result, the newly established Nigerian state with a multi-ethnic and multi-religious society became subject to serious tensions almost from the outset. At the root of such tensions also lay clear cultural differences, especially those setting apart Muslims and Christians; the question of the division of budget revenues, which in large measure originated from the exploitation of oil fields of the Niger Delta; and problems related to the different political traditions of the main ethnic groups and the difficulty of reconciling them for the purpose of running an independent state.

Tensions erupted in the second half of the 1960s, when the army began to play a decisive role in Nigerian politics. In January 1966, during an unsuccessful military coup conducted mainly by the Igbo, a considerable proportion of Nigeria's leading politicians, public functionaries, and high-ranking officers from the Hausa-Fulani and Yoruba ethnic groups were killed. As a result of the complicated political situation that followed the attempted coup and the ensuing persecutions of the Igbo, especially by the Hausa-Fulani, in 1967 the Igbo proclaimed the secession of the oil rich Eastern Region and the establishment on its territory of the

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<sup>12</sup> Index Mundi, Nigeria Demographics Profile 2017:

[https://www.indexmundi.com/nigeria/demographics\\_profile.html](https://www.indexmundi.com/nigeria/demographics_profile.html) (accessed 29.11.2017).

<sup>13</sup> Ethnologue: Languages of the World, Nigeria: <http://www.ethnologue.com/country/NG> (accessed 10.10.2017).

<sup>14</sup> Index Mundi, Nigeria Demographics Profile...

<sup>15</sup> *Ibidem*.

independent Republic of Biafra,<sup>16</sup> which was then attacked by the federal forces of Nigeria, now ruled by a military junta (established as a result of a coup in July 1966).

From 1967 to 1970 the country was embroiled in a civil war, the so-called Biafra War,<sup>17</sup> which, according to most sources, cost the lives of over one million people. The Christian Igbo were opposed by the mostly Muslim Hausa-Fulani and the mostly Christian Yoruba. The Biafra War had the characteristics of an ethnic conflict.<sup>18</sup> After the end of the war, which the federal side won, the political situation in Nigeria gradually stabilized, something that certain experts saw as being due mainly to the introduction in that country of the institutions of a centripetal political system.<sup>19</sup>

The emergence of centripetalism in Nigeria did not prevent the breakout of all conflicts. These were, however, of a lesser scale than the Biafra War and were not strictly ethnic in character. The most serious present conflict in Nigeria is the ongoing revolt of the extremist Muslim organization Boko Haram (Jama'atu Ahlis Sunna Lidda'awati wal-Jihad), which is directed against the Nigerian authorities, against Christians, and against those Muslims who tolerate Western influences above all in education, science, administration and the political system. Another important conflict, one whose intensity has decreased recently, has been going on since the 1990s in the Niger River delta: The members of mostly two ethnic groups inhabiting this area, the Ijaw and the Ogoni, organized in a number of armed organizations, are opposed to, in the words of their leaders, economic exploitation by the central government. This conflict, however, has its own specific character because the direct targets of the attacks by the Niger River delta rebels are not so much the forces of the

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<sup>16</sup> The Biafra Republic, with its capital in Enugu, was recognized by only 5 states and existed formally until 1970.

<sup>17</sup> See, for example, R. Luckham, *The Nigerian Military: A Sociological Analysis of Authority and Revolt 1960–67*, Cambridge: Cambridge University Press, 1971, pp. 298–340.

<sup>18</sup> The notion of “ethnic conflict” (also “interethnic conflict”) is understood by the author as defined by Errol A. Henderson, as a dispute between rival groups, which identify themselves mainly in terms of ethnic criteria (i.e., connected with such common traits as ethnicity/nationality, language, religion and race), and which raise group claims to resources on the basis of their group rights. See E.A. Henderson, ‘Ethnic Conflict and Cooperation’ in *Encyclopedia of Violence, Peace, and Conflict*, Vol. 1, L. Kurtz (ed.), San Diego: Academic Press, 1999, p. 751.

<sup>19</sup> See, for example, Horowitz, *Ethnic Groups in Conflict...*, pp. 612–613.

Nigerian state, but the workers and the installations of Western companies extracting oil and gas in the Niger River delta. Still, by targeting the petroleum industry, the rebels are reducing Nigeria's budget revenues, 80% of which, according to the Nigerian political scientist Rotimi T. Suberu,<sup>20</sup> derive from various taxes and levies paid by entities exploiting the resources of the Niger River delta. At least 13% of those revenues should be returned to several southern states where such resources are extracted. Considering the very high degree of corruption in Nigeria, however, the transfer of those funds to the authorities of the Niger River delta states does not necessarily mean they are spent rationally for the benefit of the local population.

## 2.2. Indonesia and its political situation

Indonesia, independent since 1945, is the world's fourth most populous country, with a population of about 265 million inhabitants in 2017.<sup>21</sup> The Indonesian economy is one of the world's largest.<sup>22</sup> Indonesia occupies an area of almost 2 million km<sup>2</sup>, and its territory on the equatorial axis extends over 5,000 km. The country is made up of about 17,000 islands, over 6,000 of which are inhabited. Unique cultures have emerged on many Indonesian islands. Indonesian society is very divided ethnically and, to a lesser degree, also religiously. According to data from 2010, the largest ethnic group in Indonesia are the Javanese (a little over 40% of the entire population), followed by the Sundanese (approx. 15.5%), the Malay (approx. 3.7%), the Batak (approx. 3.6%) and the Madurese (approx. 3%).<sup>23</sup> The share of any of the several hundred other native ethnic groups

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<sup>20</sup> R.T. Suberu, 'Federalism and the Management of Ethnic Conflict: The Nigerian Experience' in *Ethnic Federalism: The Ethiopian Experience in Comparative Perspective*, D. Turton (ed.), Oxford: James Currey, 2006, pp. 75–76.

<sup>21</sup> Worldometers, Population in 2017, Indonesia: <http://www.worldometers.info/world-population/indonesia-population/> (accessed 10.10.2017).

<sup>22</sup> Indonesia's nominal GDP in 2016 was approx. \$932 billion, making the country the 5<sup>th</sup> largest economy in Asia and the 16<sup>th</sup> in the world. See International Monetary Fund, World Economic Outlook Database, Washington DC, October 2017: <http://www.imf.org/external/pubs/ft/weo/2017/02/weodata/weorept.aspx> (accessed 29.11.2017).

<sup>23</sup> A. Ananta, E. N. Arifin, M. S. Hasbullah, N. B. Handayani, and A. Pramono, *Changing Ethnic Composition: Indonesia, 2000–2010*, 2013: <http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.693.2147&rep=rep1&type=pdf> (accessed 11.10.2017).

Index Mundi, Indonesia Demographics Profile 2017: [https://www.indexmundi.com/indonesia/demographics\\_profile.html](https://www.indexmundi.com/indonesia/demographics_profile.html) (accessed 12.10.2017).

in Indonesia's population is under 3%. Among the immigrant population, the most numerous are the Chinese (approx. 1.2%). According to data from 2010, the vast majority of Indonesians, approx. 87%, are Muslim (overwhelmingly Sunni); the number of Christians (Protestants and Catholics) is just under 10%; and Hindus represent approx. 1.7%.<sup>24</sup>

The introduction during the democratization wave in 1998–2002 of institutions which are typical of inter-segmental power-sharing systems was determined by at least two basic factors. Firstly, the smaller ethnic groups feared that the Javanese's politically and economically superior position would be used against their interests in the state. As is shown by Donald L. Horowitz,<sup>25</sup> certain electoral systems could give the inhabitants of Java or the ethnic Javanese, a sufficient number of votes to enable them to single-handedly elect the president of Indonesia. Smaller ethnic groups' fear of the Javanese's dominance was made the greater by the latter's preponderant influence in Indonesia's political life during the authoritarian period,<sup>26</sup> and by the fact that many Javanese migrate from the overpopulated island of Java to other islands. Christians, especially those who live in the Maluku Islands, in certain areas of Sulawesi and also in the Indonesian part of New Guinea, are especially fearful of dominance by the Javanese, most of whom are Muslim. The majority of Indonesia's Christians belong to small ethnic groups.

Secondly, when the democratic changes began in 1998,<sup>27</sup> part of Indonesia's political elite, especially Javanese, feared the country's territorial disintegration and, more specifically, the secession of certain of its regions, as exemplified by East Timor's official independence in 2002. Separatist tendencies in independent Indonesia were at one time very vivid and, to a lesser degree, continue to exist in the northern portions of Sumatra, in the province of Aceh (despite the signing in 2005 of a peace agreement between local separatists and the Indonesian authorities), which abounds in deposits of oil and natural gas, and in the Indonesian

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<sup>24</sup> Index Mundi, Indonesia Demographics Profile 2017: [https://www.indexmundi.com/indonesia/demographics\\_profile.html](https://www.indexmundi.com/indonesia/demographics_profile.html) (accessed 12.10.2017).

<sup>25</sup> D.L. Horowitz, *Constitutional Change and Democracy in Indonesia*, New York: Cambridge University Press, 2013, p. 58.

<sup>26</sup> Horowitz (ibid., p. 59) notes that during the presidency of Suharto (who governed uninterruptedly from 1967 to 1998), the Javanese not only enjoyed key influence on the central government, but through the intermediary of retired Indonesian army officers, made up "the core of political control" beyond Java, on the so-called external Indonesian islands.

<sup>27</sup> The changes began with the resignation of president Suharto following a wave of popular protests in 1998, and with the first multi-party elections in 1999.

portion of New Guinea, in the provinces of Papua and West Papua, which have various natural resources such as gold, copper, silver, natural gas and wood.<sup>28</sup> Both provinces and Aceh were given a special autonomous status<sup>29</sup> that was fully implemented only in Aceh.<sup>30</sup>

In addition, separatist currents were quite strong until recently in multi-ethnic Maluku, in the eastern part of the Malay Archipelago, in the present provinces of Maluku and North Maluku, where some ethnic groups are Muslim and some Christian. On several occasions, Maluku was the scene of bloody conflicts between followers of the two religions who were, at the same time, members of various ethnic groups. Aspirations to gain broad autonomy also emerged in the east-central part of Sumatra (in the regions of Riau, presently divided into two provinces – Riau and the Riau Archipelago), which has various natural resources and is inhabited in large measure by Malays, Bataks and Chinese; on the Minahasa Peninsula in north-eastern Sulawesi in the multi-ethnic province of North Sulawesi, whose population is in large measure Christian; and on the oil-rich island of Borneo, in the province of East Kalimantan, to which Indonesians of different ethnic backgrounds migrate. The provinces of Central Kalimantan (once part of East Kalimantan province) and West Kalimantan are periodically the scene of conflicts between the native Dayaks and Malay, and migrants from the island of Madura, the Madurese.

As the above summary indicates, conditions in Indonesia make it possible for separatisms and for ethnic and communal conflicts to arise. The largest of them (in the Indonesian part of New Guinea and in Aceh) took place prior to the introduction of power-sharing. Conflicts of lesser intensity also took place at the beginning of the 21<sup>st</sup> century. At present, the intensity of separatist currents in Indonesia is low and ethnic and communal conflicts occur rarely.

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<sup>28</sup> The Indonesian, western portion of New Guinea, where the provinces of Papua and West Papua are located, used to be called Irian Barat (West Irian), Irian Jaya, and subsequently Papua.

<sup>29</sup> For more on separatisms and autonomy in Aceh and Indonesian Papua, see R. McGibbon, *Secessionist Challenges in Aceh and Papua: Is Special Autonomy the Solution?*, Washington DC: East-West Center, 2004.

<sup>30</sup> Krzysztof Trzcziński, 'The Consociational Addition to Indonesia's Centripetalism as a Tactic of the Central Authorities: The Case of Papua', *Hemispheres*, Vol. 31, No. 4, 2016, pp. 5–20: [http://www.iksiopan.pl/images/czasopisma/hemispheres/HEMISPHERES\\_31-4\\_2016.pdf](http://www.iksiopan.pl/images/czasopisma/hemispheres/HEMISPHERES_31-4_2016.pdf) (accessed 18.10.2017).

### **3. The nature of the institution of the requirement for a spatial distribution of votes in presidential elections in Nigeria and Indonesia**

This part of the paper will concentrate on explaining the substance of the requirement for a spatial distribution of votes in presidential elections in Nigeria and Indonesia. In the case of Nigeria, differences between the country's present constitution and the previous one will be discussed as they pertain to the requirement in question.

#### **3.1. Present Nigerian constitutional provisions**

In keeping with the Constitution of the so-called Fourth Republic from May 29, 1999,<sup>31</sup> in the Federal Republic of Nigeria, the president is both head of state and head of the government (art. 130 (2)). He is chosen in universal elections for a four-year term (art. 135 (2)). The same person can't hold the office of president for more than two terms (art. 137 (1) (b)). A citizen of Nigeria can run for the office of president only if he is a member of one of the political parties active in the country, and if this party finances his candidacy (art. 131 (c)).

The requirement for a spatial distribution of votes in presidential elections in Nigeria refers to states as the country's basic units of territorial division (the Nigerian federation is presently made up of 36 states) and to the Federal Capital Territory (FCT), Abuja (art. 3 (1) and (4)), which is governed directly by the federal government.

In keeping with the constitution of 1999, the requirement in question in the first round of presidential elections in Nigeria is applicable to three cases, which can arise in connection with different numbers of candidates for the office of president. Firstly, in the highly improbable case of there being only one candidate in the presidential election, to be duly elected he will have to win more positive (YES) votes than negative (NO) ones, and not less than 25% of positive votes cast in each of at least 2/3 of all federal states (counting the FCT) (art. 133 (a) and (b)). Secondly, in the case of there being two candidates in the presidential election, the winner will be the one who gains more than half of all votes, and no less than 25% of votes cast in each of at least 2/3 of all states of the federation (counting the FCT) (art. 134 (1) (a) and (b)). Thirdly, in the situation that is most probable and most typical for Nigeria, when more than two candidates take part in presidential elections, the office of president will

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<sup>31</sup> The Constitution of the Federal Republic of Nigeria of 29 May 1999: [http://www.wipo.int/wipolex/en/text.jsp?file\\_id=179202](http://www.wipo.int/wipolex/en/text.jsp?file_id=179202) (accessed 18.10.2017).

fall to the one who obtains the greatest number of votes and no less than 25% of votes cast in at least 2/3 of all states of the federation (counting the FCT) (art. 134 (2) (a) and (b)).

If no candidate manages to meet the requirements necessary to win the office of head of state, within 7 days from the announcement of the results of the election the Independent National Electoral Commission has to set the date for a second round (art. 134 (4)).

The second round is open to two candidates from the first round: the one who won the greatest number of votes cast in the entire country and one of the remaining candidates (art. 134 (3) (a) and (b)). In keeping with the constitution, the second is not the candidate who won the second largest number of votes in the entire country, but the one who won the greatest number of votes in the largest number of Nigerian states (art. 134 (3) (b)). This provision potentially strengthens the importance of the requirement for a spatial distribution of votes in presidential elections. Nonetheless, to continue with the subject of the candidate entitled to move on to the second round of elections as the second candidate, the Nigerian constitution also provides for a situation in which two candidates obtain a high number of votes in an identical number of states. In such a case, it entitles the one who has won the largest number of votes in the entire country to take part in the second round (art. 134 (3) (b)).

The second round of presidential elections in Nigeria can, but doesn't necessarily, lead to the election of the head of state. In keeping with the Constitution, for one of the candidates running in the second round to win the office of president, in addition to winning a simple majority of votes, he must win no less than 25% of votes cast in each of at least 2/3 of all states of the federation (with the FCT) (art. 134 (4) (a) and (b)). As a result, when the candidate who has won a simple majority of votes doesn't meet the requirement for a spatial distribution of votes, within 7 days from the announcement of the results of the second round the Independent National Electoral Commission has to set the date for a third round.

Both candidates taking part in the second round of the presidential elections in Nigeria also take part in the third round. The office of president will go to the one who wins a simple majority of votes cast (art. 134 (5)). The Constitution of Nigeria waives the requirement for a spatial distribution of votes only in the third round of presidential elections.

### 3.2. Earlier Nigerian constitutional provisions

In their majority, the provisions concerning the requirement for a spatial distribution of votes in presidential elections contained in the Nigerian Constitution of the so-called Fourth Republic from 1999 are identical to the provisions contained in the Constitution of the so-called Second Republic from 1979,<sup>32</sup> in which the said requirement was used for the first time.<sup>33</sup>

There is, however, a fundamental difference in the mode of procedure in cases when choosing the head of state proves impossible in either the first or second round of a general election. The 1999 Constitution prescribes in such a situation that a third round of general presidential elections be called, in which a spatial distribution of votes will not be required of the candidate who obtains a greater number of votes (art. 134 (5)). In contrast, the 1979 Constitution did not provide for a third round of general elections in this situation.

In keeping with its provisions, (art. 126 (4)), if the candidate who wins a simple majority of votes in the second round does not obtain the required spatial distribution of votes, the Independent National Electoral Commission will have to, within 7 days following the announcement of the results of the second round of presidential elections, set a date for the election of the president from among the two candidates, who competed with one another in the second round. But, in such a case, the election of the president is to be conducted by the members of both chambers of the federal House of the National Assembly and the parliament of each Nigerian state (House of Assembly of a State).<sup>34</sup> The candidate who obtains a simple majority of votes cast jointly in all legislative bodies will win the office of president. These provisions have never been tested in practice, however.

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<sup>32</sup> The Constitution of the Federal Republic of Nigeria of 1 October 1979 (enacted on 21 September 1978): [http://www.constitutionnet.org/files/nig\\_const\\_79.pdf](http://www.constitutionnet.org/files/nig_const_79.pdf) (accessed 18.10.2017).

<sup>33</sup> R. Benjamin, 'Introduction' in *Political Parties in Conflict-Prone Societies: Regulation, Engineering, and Democratic Development*, R. Benjamin and P. Nordlund (eds), Tokyo-New York-Paris: United Nations University Press, 2008, p. 14. The so-called Second Republic of Nigeria fell with the military coup of 1983. Later attempts to establish the so-called Third Republic in 1993 ended in failure. The Constitution of the Third Republic from 1993 never fully came into force, and the military stayed in power in Nigeria from 1983 to 1999.

<sup>34</sup> For more on this subject, see the Constitution of the Federal Republic of Nigeria of 1 October 1979..., art. 84–121.

### 3.3. Indonesian constitutional provisions

The Constitution of the Republic of Indonesia from 1945,<sup>35</sup> following the introduction of the Third amendment of November 9, 2001 and the Fourth amendment of August 11, 2002,<sup>36</sup> states that the president, elected in a general election (art. 6A (1)) for a five-year term (art. 7), is head of state and, at the same time, the head of the Indonesian government (art. 4 (1) and art. 5). The same person can not occupy the office of president more than twice (art. 7). A candidate for president can be put forward by a political party or a coalition of political parties (art. 6A (2)).

In order to be the winner in the first round of Indonesia's presidential elections a candidate must obtain not only over 50% of the votes cast in the entire country but, at the same time, at least 20% of votes cast in more than half of all the country's provinces (art. 6A (3)).<sup>37</sup> Should none of the candidates manage to obtain such support, the two candidates who have won the greatest number of votes cast in the first round will pass on to the second round. The one of the two candidates who wins the greater number of votes in the second round will become head of state (art. 6A (4)).

### 4. Final remarks

In this part of the article paper I will discuss the present differences between the constitutional provisions in Nigeria and Indonesia as they relate to the requirement for a spatial distribution of votes cast in

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<sup>35</sup> The Constitution of the Republic of Indonesia from 18 August 1945 (with later amendments):

<http://www.wipo.int/edocs/lexdocs/laws/en/id/id061en.pdf> (accessed 20.10.2017).

<sup>36</sup> For more on the subject of these and other amendments to the Constitution of the Republic of Indonesia from 18 August 1945, see E. Schneier, *The Role of Constitution-Building Processes in Democratization: Case Study – Indonesia: The Constitution-Building Process in Post-Suharto Indonesia*, Stockholm: International Institute for Democracy and Electoral Assistance, 2005:

[http://www.idea.int/cbp/upload/CBP\\_indonesia.pdf](http://www.idea.int/cbp/upload/CBP_indonesia.pdf) (accessed 22.10.2017); A. Ellis,

*Constitutional Reform in Indonesia: A Retrospective*, March 2005:

<http://www.constitutionnet.org/files/AEpaperCBPIndonesia.pdf> (accessed 22.10.2017).

Horowitz provides a synthesis of the events leading to the introduction of the requirement in question in Indonesia's presidential elections in *Constitutional Change and Democracy...*, pp. 108–122.

<sup>37</sup> Discussions in Indonesia about the creation of additional provinces have been under way for several years, however. See, for example, S. R. Max, 'How many provinces does Indonesia need?', *The Jakarta Post*, April 20, 2012: <http://www.thejakartapost.com/news/2012/04/20/how-many-provinces-does-indonesia-need.html> (accessed 24.10.2017).

presidential elections. I will then attempt to address the question of whether the institution of the requirement in question has the effect of reducing the importance of conflictive behavior in relations between ethnic groups, i.e., whether it meets the goal for which it was established.

#### **4.1. Differences in the essence of the requirement in question in constitutional orders of Nigeria and Indonesia**

The provisions of the constitutions of Nigeria and Indonesia concerning the requirement for a spatial distribution of votes in presidential elections are in certain aspects different. Firstly, in the case of Indonesia the principles constituting the requirement in question are less complicated than in Nigeria, where three rounds of elections are theoretically possible, with the requirement in question being a part of the two first ones. In Indonesia, two rounds of elections can take place, but this requirement must be met only in the first round.

Secondly, Nigeria and Indonesia have adopted somewhat different principles concerning levels of support – defined in percentage terms – which the victorious candidate needs to obtain in the country's basic territorial division units (states or provinces) and their number. And so, in the case of Nigeria this level is a minimum of 25% of votes cast in each of at least 2/3 of all states of the federation (there were 36 states in 2017), with the FCT. These provisions are applicable in Nigeria to the first and, should the need arise, to the second round of presidential elections. In the case of Indonesia, this level was set at a minimum of 20% of votes cast in more than half of the country's provinces (there were 34 of them in 2017).

Taking into account the requisite number of rounds with the requirement, the minimal percentage of votes and the number of regions involved, it should be said that the principles of the requirement for a spatial distribution of votes in presidential elections are more stringent in Nigeria. But, although in both countries the requirement is accompanied by a requirement of obtaining majority support, which is typical for elections for a single-person office, in the case of Nigeria it is only a requirement to obtain a relative majority of votes, while in the case of Indonesia, it is an absolute majority.

#### **4.2. Does the institution of the requirement in question meet the goals for which it was established?**

An in-depth, especially a comparative, examination of the full consequences of the introduction of the requirement for a spatial

distribution of votes in presidential elections is not possible for the moment, mostly for the reason that this requirement has not functioned in democratic conditions for very long.

In this context, the question that should be raised at the outset is whether the institution of the requirement for a spatial distribution of votes in presidential elections is democratic. It stands out from among the institutions typically found in liberal majoritarian democracies. This currently prevalent model of democracy usually precludes a situation in which the arithmetic victor of presidential elections, i.e., one who has obtained a majority of votes (a relative or absolute majority, depending on legal requirements in force) isn't allowed to assume office,<sup>38</sup> because the support he has obtained did not assume the appropriate spatial distribution in a specified majority of a given country's regions. Yet in order to determine the democratic credentials of the requirement in question, the social acquiescence implied by its presence in the given country's constitution should be sufficient. Were this not the case, it would be equally reasonable to question the fact that in long established western democracies, some of which are monarchies, the head of state is not even elected. The grounds for questioning the democratic nature of such an institution are certainly more solid than in the case of the requirement in question.

Nevertheless, of the countries in which the requirement under examination exists, only in Indonesia is there a democratic regime. All the reports concerning the state of democracy in the world published thus far by the respected Economist Intelligence Unit (Democracy Indexes 2006, 2008, 2010-2016) indicate that Indonesia is today considered to be – in keeping with the extensive criteria adopted by the authors of these reports – a democratic state, and specifically as a state with a flawed democratic regime. Similarly, D.L. Horowitz defines Indonesia as a low-quality democracy,<sup>39</sup> because, as he puts it, there remain areas of delayed development in that country.<sup>40</sup> Among the most important of these, D.L. Horowitz names four: the special status of the army (which continues to influence political life and whose violations of the law often go

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<sup>38</sup> Specific arrangements in this regard exist in the United States, but their character is different from that of the requirement in question.

<sup>39</sup> Horowitz, *Constitutional Change and Democracy*..., p. 207.

<sup>40</sup> *Ibid.*, p. 209.

unpunished), an excess of corruption, a deficit of the rule of law and a high level of religious intolerance.<sup>41</sup>

Since the Democracy Indexes were first published, in all its editions until 2014, Nigeria was classified as authoritarian state, and since 2015, as a state with a hybrid regime. This is the more significant as the democratic character of the presidential elections held in Nigeria before 2015 was highly questionable, as were their results.

Importantly, never has a favorite candidate in a presidential election in any country where a spatial distribution of votes in presidential elections is required not acceded to the office of president for failing to meet it.

And so, in Nigeria under the rule of the Constitution of the so-called Fourth Republic from 1999, presidential elections took place in 2003, 2007, 2011 and in 2015. According to official results, each time one of the candidates won in the first round and always obtained over 50% of votes cast, despite the fact that in that country, a candidate who simply obtained the greatest number of votes cast, i.e., who has won a relative majority, can win the elections if he meets the requirement for a spatial distribution of votes.<sup>42</sup> It is considered that only the elections of 2015 have been conducted in keeping with democratic standards.<sup>43</sup>

From 1979 to 1999, presidential elections were held four times. In 1979 and in 1983 the leading candidate won the elections in the first round

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<sup>41</sup> For more on this subject, see Krzysztof Trzcíński, ‘„Demokracja o niskiej jakości” (“low-quality democracy”) – zasadność stosowania pojęcia i Horowitzowska egzemplifikacja na przykładzie Indonezji’ [“Low-Quality Democracy” – The Validity of the Concept and the Horowitz’s Exemplification: The Case of Indonesia’], *Studia Polityczne* [Political Studies], Vol. 44, No. 4, 2016, pp. 167–189.

<sup>42</sup> 19 April 2003 Presidential Election, 21 April 2007 Presidential Election & 16 April 2011 Presidential Election, in African Elections Database, Elections in Nigeria: [http://africanelections.tripod.com/ng.html#2003\\_Presidential\\_Election](http://africanelections.tripod.com/ng.html#2003_Presidential_Election) (accessed 26.10.2017); [http://africanelections.tripod.com/ng.html#2007\\_Presidential\\_Election](http://africanelections.tripod.com/ng.html#2007_Presidential_Election) (accessed 26.10.2017); <http://africanelections.tripod.com/ng2007presidential.pdf> (accessed 26.10.2017); [http://africanelections.tripod.com/ng.html#2011\\_Presidential\\_Election](http://africanelections.tripod.com/ng.html#2011_Presidential_Election) (accessed 26.10.2017).

<sup>43</sup> ‘Nigeria: Setting an Example?’ in *The Economist Intelligence Unit’s Democracy Index 2015: Democracy in an Age of Anxiety*: [https://www.eiu.com/public/topical\\_report.aspx?campaignid=DemocracyIndex2015](https://www.eiu.com/public/topical_report.aspx?campaignid=DemocracyIndex2015) (accessed 28.10.2017).

by obtaining a relative majority of votes,<sup>44</sup> while in 1993 and 1999 the leading candidate also won the elections in the first round, but with an absolute majority of votes.<sup>45</sup>

The situation in the imperfect Indonesian democratic system looks somewhat different. Following the introduction, in 2001-2002, to the Constitution of 1945 of the Third and Fourth amendments, the election of the president of Indonesia was conducted through universal suffrage three times – in 2004,<sup>46</sup> in 2009,<sup>47</sup> and in 2014.<sup>48</sup> Only the 2004 elections had two rounds, and this was connected with the fact that the leading candidate did not obtain in the first round the required more than half of the votes cast in the entire country.

Leaving aside the question of the degree to which the presidential elections in Nigeria and Indonesia are truly democratic, the above-mentioned facts should not be interpreted as supporting the thesis that the requirement in question is of no practical significance. Quite the opposite, they suggest that the victorious candidates in elections are politicians whose views and acts, especially in matters that are sensitive for inter-ethnic relations are moderate in character. Moderation in politics allows them to obtain a wider degree of support than that from their own ethnic group. What's more, this moderation is characteristic for them during the exercise of their presidential authority and can lead to their re-election.

Nigeria and Indonesia have presidential systems, of which the institution of vice-president is an inherent part. Given this, one can

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<sup>44</sup> 11 August 1979 Presidential Election & 6 August 1983 Presidential Election, in African Elections Database, Elections in Nigeria: [http://africanelections.tripod.com/ng.html#1979\\_Presidential\\_Election](http://africanelections.tripod.com/ng.html#1979_Presidential_Election) (accessed 26.10.2017); [http://africanelections.tripod.com/ng.html#1983\\_Presidential\\_Election](http://africanelections.tripod.com/ng.html#1983_Presidential_Election) (accessed 26.10.2017); <http://africanelections.tripod.com/ng/1983presidential.pdf> (accessed 26.10.2017).

<sup>45</sup> 12 June 1993 Presidential Election & 27 February 1999 Presidential Election, in African Elections Database, Elections in Nigeria: [http://africanelections.tripod.com/ng.html#1993\\_Presidential\\_Election](http://africanelections.tripod.com/ng.html#1993_Presidential_Election) (accessed 26.10.2017); [http://africanelections.tripod.com/ng.html#1999\\_Presidential\\_Election](http://africanelections.tripod.com/ng.html#1999_Presidential_Election) (accessed 26.10.2017).

<sup>46</sup> The Carter Center 2004 Indonesia Election Report, June 2005: <http://www.cartercenter.org/documents/2161.pdf> (accessed 28.10.2017).

<sup>47</sup> A. Ufen, 'The Legislative and Presidential Elections in Indonesia in 2009', *Electoral Studies: An International Journal*, No. 2, 2010, p. 284.

<sup>48</sup> International Foundation for Electoral Systems, Final Results of the 2014 Presidential Election in Indonesia Announced, July 22, 2014: <http://www.ifes.org/Content/Publications/News-in-Brief/2014/July/Final-Results-of-the-2014-Presidential-Election-in-Indonesia-Announced.aspx> (accessed 28.10.2017).

equally well conclude that, for example, the selection by a candidate in presidential elections of a partner for the office of vice-president of a different ethnic origin than his own could also have a positive effect on the electoral outcome.<sup>49</sup> Such a situation has always been the case in Nigeria, and is frequent in Indonesia. In addition, in Nigeria the vice-president is customarily of a different religion than that of the president.

The requirement for a spatial distribution of votes in presidential elections is one of several centripetal institutions simultaneously functioning in Nigeria and Indonesia. Its role can not be justly appraised without taking into account the wider context of the long-term functioning of power-sharing type political systems in conditions of democracy, which accords such systems their legitimacy and makes them more transparent. In such a context, one can already say that the requirement in question could be important in the process of choosing moderate candidates for the offices of president and vice-president, and in the process of formulating such political programs that hold no preferences for specific ethnic groups, but whose character in conditions of a multi-ethnic society is integrative.

At this stage, there is still a lack of convincing evidence corroborating the thesis that the existence of the requirement for a spatial distribution of votes in presidential elections could help to stabilize the political situation and, especially, to reduce the importance of conflictive behaviour in relations between ethnic segments in Nigeria and Indonesia. Although it is true that the intensity of inter-segmental conflicts in those two countries in the beginning of the 21<sup>st</sup> century is lesser than in the 20<sup>th</sup> century,<sup>50</sup> this fact cannot be attributed directly and solely to the application of the requirement in question. Many other factors can be just as influential in terms of reducing the importance of conflictive behaviour in relations between ethnic groups. Such factors may include the many other types of

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<sup>49</sup> For the example of Kenya, see The Results of the 2013 Kenyan Presidential Election, African Studies Center Leiden: <http://www.ascleiden.nl/news/results-2013-kenyan-presidential-election> (accessed 28.10.2017).

<sup>50</sup> The opposite situation takes place in Kenya, where the requirement in question is also applied.

centripetal, but also consociational, power-sharing institutions that exist in both Nigeria,<sup>51</sup> and Indonesia.<sup>52</sup>

Intuition suggests, however, that D. L. Horowitz is right when he states that the requirement of a spatial distribution of votes in presidential elections is an example of a solution favoring less conflictive behaviour in mutual relations between politicians in multi-segmental societies, especially if this institution is accompanied by other ones introduced for the same purpose.

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<sup>51</sup> For more on this subject, see Krzysztof Trzciński, 'How Theoretically Opposite Models of Interethnic Power-Sharing Can Complement Each Other and Contribute to Political Stabilization: The Case of Nigeria', *Politeja*, Vol. 42, No. 3, 2016, pp. 53–73:

<http://www.akademicka.pl/ebooks/free/c3b7109ec2dbc4b3834ccd59bc1d59d3.pdf> (accessed 28.10.2017).

<sup>52</sup> For more on this subject, see Krzysztof Trzciński, 'Hybrid Power-Sharing in Indonesia', *Polish Political Science Yearbook*, Vol. 46, No. 1, 2017, pp. 168–185: <http://www.marszalek.com.pl/yearbook/docs/46-1/pps2017111.pdf> (accessed 28.10.2017).

