



Appraising Nigeria's Chequered Federalism

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Abstract

The chequered federalism of Nigeria is examined in this paper. It is chequered because it is unitary in nature and the federal government, which serves as the centre wields too much power. It is also tainted by the failure of successive military and civil administrations since 1966 to properly implement true federalism, which entails transferring authority which is outlined in the exclusive list of the 1999 constitution as amended from the federal government to the states of the federation. The distribution of powers between the federal and federating units are unequal and uneven. Some areas of the country now feel alienated as a result of this. The cumulative effects may be seen clearly in the constant secession threats, inter-tribal fights, power struggle among the three main ethnic groups in the nation, ongoing security concerns, blatant corruption among the populace, and a lot of other things. This paper concludes that power devolution from the federal government to the federating units is the solution to Nigeria's tumultuous federalism.

Keywords:- Appraising, chequered federalism, devolution of powers, federal government, federating units.

1. INTRODUCTION

Nigeria's federal system dates back to 1914, when the Northern and Southern protectorates were combined, albeit under a unitary form of government. The 1946 constitution of Sir Authur Richards established three regions, the Northern region, the Southern region, and the Eastern region, which helped Nigeria become a federal state. In 1951, the Macpherson constitution strengthened Nigeria's federal system. The legislative and executive bodies that were constituted were given legislative authority under the constitution, and lieutenant Governors were nominated to lead these three regions. By creating a real federal state in which the central and regional governments shared authority, the Lyttleton constitution of 1954 eliminated¹ the last vestige of a unitary government in Nigeria. A supreme court was established to resolve any constitutional disputes that might develop² between the central and regional governments. It is important to note that, before Nigeria's independence in 1960, its three federating regions, the Eastern, Western, and Northern regions were autonomous from one another, just like the thirteen American colonies were. Federalism was created by the British colonial rulers as a form of administration to calm the multi ethnic, linguistic, and culturally varied Nigeria. Nigerian

1 Odion, IR (2011) A critical assessment on Nigerian federalism: Path to a true federal system. A paper presented at the 4th Annual National Conference, I.B.B Hall F.C.E (T) Potiskum, Yobe state

2 *Ibid.*

nationalist leaders supported the country's unity because they believed that the nation's variety would be a great asset that could boost its economy.

Nigeria continued to practice federalism as intended by its architects after gaining independence in 1960, until the *coup d'état* that brought in military rule in 1966 and resulted in the suspension of some constitutional provisions by decree 34 of May 24. Their rise to power destroyed³ the federating units' independence and encouraged the development of more states because they were dependent on federal income each month rather than being able to survive independently. Nigerian federalism has a turbulent history since it is unitary and centralized, with the federal government passing laws on the majority of issues affecting the states. Weak federating units and a strong centre, uneven and unequal distribution of power between the federal government and the states. As a result, there have been ongoing agitations for secession, religious disputes, tribal clashes, creation of states, the establishment of state police, the necessity for a new revenue allocation formula, and a number of other things.

The paper in lieu of the aforementioned is divided into five connected sections, starting with the introduction. The second part explores the idea of federalism. Definitions and theories of federalism put forth by numerous scholars, including Watts, Nwabueze, and the father of federalism, Wheare, were discussed. Part three covers in detail the complicated aspects of Nigeria's federalism. Some of these include the failure to establish a state police, unequal revenue distribution to the federating units, secession threats, intertribal conflicts, control over Nigeria's natural resources, years of protracted military rule, ineffective civil government, and a number of other issues. Pointedly, part four attempts a comparative study by stating briefly the concept of federalism in the United States pertaining to devolution of powers. Finally, part five concludes by stating that the way out Nigeria's chequered federalism is devolution of powers from the federal government to the federating units.

2. THE CONCEPT OF FEDERALISM

The Latin words⁴ "*foedus*" and "*fides*," which are respectively rendered as "agreement, contract, compact, covenant," and "trust," are the source of the words "federal" and "federalism." Kenneth Wheare is regarded as one of the pioneers in the field of federalism. He described federalism as a form of government⁵ where powers are divided among co-ordinate authorities that are not in any way inferior to one another in terms of the scope or the way they carry out the duties that have been assigned to them. Wheare contends that in order to accomplish this form of system, there would be "the method of separating authorities such that the general and regional administrations are each within a sphere, coordinating and independent. He stated that the following⁶ are necessary components of federalism: A written constitution that outlines the division of powers; a division of power among various governments; a coordinated supremacy of two orders of government with relation to their respective functions. Federalism, according to Friedrich,⁷ should be viewed as a process that organizes variety and unity on a political level, and like all political phenomena, it involves people, institutions, and ideas. According to him,⁸ federalism joins groups that are joined by one or more objectives while maintaining their distributive group nature for other purposes. It unites without destroying the groups who are combining and is intended to strengthen them in their group relationships. In summary, the information presented above argues that federalism is crucial for the division of political and economic decision-making authority among constituent entities and levels of government. According to Elaigwu,⁹ a federal system of governance frequently develops out of peoples' desire to unite without sacrificing their individuality. In a multinational state, there must be a balance between two forms of self-determination: the desire to uphold a divine system of governance that ensures the safety of all citizens, and the desire of the constituent groups to preserve their

3 *Ibid.*

4 Dosenrode, S. (2010) Federalism Theory and Neo-Functionalism: Elements for an Analytical Framework. *Perspectives on Federalism*, 2(3):1-28.

5 Wheare, KC (1963). *Federal Government*. London, Oxford University Press 23.

6 *Ibid.*

7 Friedrich, CJ. (1963). *Federalism: National and International in Theory and Practice*. New York: Friedrich A Pager Publisher, 286.

8 Friedrich, CJ (1968) *Trends of Federalism in Theory & Practice*, New York: Praeger 286.

9 Elaigwu, JI. (2005), *The Politics of Federalism in Nigeria* Jos, Nigeria: Ayaotu Publishers 56.

identities. Federalism is another idea that Ricker functionally defines¹⁰ as a method of government. In the process, he sees federalism as the primary alternative to empire in terms of a government method. Additionally, he describes¹¹ its structural features as follows: There are some assurances of autonomy for each government in two sectors (even if it is a mere statement in the constitution).

Federalism, federal political systems, and federations are the three categories that Watts claims can be distinguished¹² when describing the federal form of government. According to him, the term "federalism" refers to the support for multi-tiered government that combines parts of common control and regional self-rule. It is essentially normative rather than descriptive. William Livingston also took a broad view¹³ of federalism, one that went beyond the narrow confines of legal formulation, noting that the documentary constitution may not be the best indicator of whether a political system is federal or not. He saw federalism as the result of the interaction of socio-cultural and political factors. He explained that the forces that have shaped the external forms of federalism, economic, social, political, and cultural are where one should look to find the essence of federalism rather than the nuances of legal and constitutional nomenclature. The essence of federalism is found in society as a whole, not just in the constitution or other formal framework.¹⁴ Adedeji asserts that the 1999 constitution's structure for intergovernmental cooperation establishes¹⁵ a hierarchical relationship. The Federal government is in charge of these institutions, despite the fact that the constitution establishes a number of them to help relations between the various levels of government. As a result, the constitution gives the Federal government an unfair edge over the states depending on their political inclinations¹⁶. According to Akinsanya, the aforementioned circumstance¹⁷ produces a *de jure* federalism and a *de facto* unitarism. Nwabueze defined federalism as¹⁸; an arrangement whereby powers of government within a country are shared between a national, country-wide government and a number of regionalized (i.e., territorially localized) government in such a way that each exists as a government separately and independently from the others operating directly on people and property within its own territorial area, with a will of its own apparatus for the conduct of its affairs with an independent judiciary. In the Nigerian case of *AG. Abia State & Ors v. AG. Federation & 32 Ors*¹⁹, the Supreme Court issued detailed rulings on the idea of federalism when it stated: Federalism, as a legal and political concept, often connotes an association of states; created for certain common goals, but the states retain a significant amount of their original independence or autonomy. The essential aspect of it is the power allocation and coordination between the several states and the federal government. Federalism is a workable idea for setting up a federal government in a pluralistic society like Nigeria because it discourages the concentration of power in the federal government's centre. The component states of federalism do not serve as errand boys. They do not exercise sovereignty, which solely belongs to the nation as a sovereign entity, according to the other extreme, which is also true. If I may say so, states in a federation prefer to play the middle role while exercising their constitutionally guaranteed legislative and fiscal autonomy.²⁰... In our opinion, the Supreme Court's ruling above perfectly captures the essence of federalism, particularly when it comes to

10 Riker WH (1964). *Federalism: Origin, operation, significance*. Boston: Little Brown 67.

11 *Ibid.*

12 Watts, RL (1999). *Comparing Federal Systems*. Kingston, Ontario: McGill-Queen's University Press 6.

13 Livingston, NA. (1956). *Federalism and Constitutional Change*. London: Oxford University Press 123.

14 *Ibid.*

15 Adedeji, AO (2017). *Federal Solution and Nigeria's Democracy*. *Journal of Social Science and Public Policy*. Vol. 7, No.1 at 49.

16 *Ibid.*

17 Akinsanya, AA (2005). *Nigeria's Inter-governmental Relations under The 1999 Constitution* in A.A.Akinsanya and JA Ayoade (ed) *Readings in Nigeria Government and Politics*. Gratia Associates, 2005 at 286.

18 Nwabueze BO *The Presidential Constitution of Nigeria*, (London: C.Hurst & Co. (Publishers) Ltd.) 198

19 (2006) 16 NWLR Part 1005 at 265; 1 CLC 94, Per Niki Tobi, JSC.

20 *Ibid.*

the Nigerian interpretation of the idea and the ensuing call for a re-examination of our federalism. Unchequered federalism requires that the units have the same authority as the centre, however this equality is not on a one-to-one basis because the powers they exercise are not those of the centre. The federation's unit relationships are not superior²¹ to the one between the centre and its component units. Federalism is a practical, adaptable, utilitarian, and dynamic form of government. It can only work to the extent that the constituent governments consult, negotiate, compromise, bargain, and come to an agreement²². It develops through a structure²³ of dependency and mutuality.

Federalism is that type of governance, says Tamuno,²⁴ "where the constituent parts of a political organization participate in sharing powers and functions in a cooperative way through the united forces of ethnic pluralism and cultural variety, among others." Federalism is a political creation, according to A.V. Dicey,²⁵ that aims to balance national power and unity with the preservation of the rights of the many member nations. According to Babalawe,²⁶: a federal state is one in which there is an explicit constitutional division of powers and responsibilities between national and sub-national groups. Additionally, the division of authority between the two levels of government, each of which is independent within its own area, is done so as to safeguard the continuation of that authority. Federalism is the theory that supports and encourages a state's organizational structure in which authority is decentralized or distributed through contracts in order to protect regional identities and individual liberties.

Federalism is believed²⁷ to be an excellent political-constitutional architecture for managing complex governmental difficulties typically linked with ethnic and cultural diversity, Ojo notes from a practical standpoint. Federalism, in general, denotes the existence of two tiers of government, each of which is constitutionally or legally permitted to make decisions separately from the others within the legislative domain that is allotted to it. Mazrui asserts in his own perspective that federalism is the institutionalization²⁸ of a relationship of compromise. In addition to being democratic and institutionalizing the majority of its constituent parts, it is also inventive and adaptable enough to take into account various accommodation strategies. Federalism is a system in which national state governments share²⁹ executive authority, resulting in what is frequently referred to as a federation.

3. NIGERIA'S CHEQUERED FEDERALISM

The following is a summary³⁰ provided by Oyediran of some of the circumstances that made Nigerian federalism necessary. Nigeria is home to many different ethnic groups, religions, linguistic groups, and cultural traditions. The operation of a unitary system is hampered by these differences.

21 Ailoje, J (1997); "Federalism and the Politics of National Integration. In *Governance in Nigeria: Economic Politics and Society in the Adjustment Years, 1985 – 1995* I.B. Bello-Imam (ed), Ibadan. StirlingHorden Publishers (Nig.) Ltd 34.

22 *Ibid.*

23 Fatile, JO and Adejuwon, KD (2009) "Inter governmental Relations in Nigeria: An Appraisal of the Involvement of Local Government", *The Constitution: A Journal of Constitutional Development*, Vol 8. Nos 3, September 101.

24 Tamuno, TN. (1989). *The Evolution of Nigeria State: The Southern Phase 1914*. London: Oxford University Press.

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26 Babalawe, T. (1998). "The Impact of the Military on Nigerian Federalism" *Re-inventing Federalism in Nigeria: Issues and Perspectives*. Kunle Amuwo and Tunde Babalawe (eds.) Ibadan: Spectrum Books 146.

27 Ojo, EO (2009) "Federalism and the search for national integration in Nigeria", *African Journal of Political Science and International Relations* Vol. 3 (9) 384-395.

28 Mazrui, A (1971). 'Pluralism and National Integration', in Kuper, L and Smith, M. G (eds) *Pluralism in Africa*, Berkeley: University of California Press 123.

29 Akindele, ST. and Olaopa (2002). "Fiscal federalism and local Government Finance in Nigeria: An Examination of Revenue, Rights and Fiscal Jurisdiction" in *Contemporary Issues in Public Administration*. Omotoso, F. ed. Lagos: Bolabay Publications 46-64.

30 Oyediran, O, Nwosu, Takaya, B., Anifowose, R. Badejo, Ogboghodo and Agbaje, A. (2008) (eds) *New Approach to Government*. Ikeja: Longman Nigeria Plc 67.

The country is too big, both in terms of territory and population, for a unitary system of government, so the people chose federalism in order to preserve as much as possible³¹. Additionally, because Nigeria's various ethnic groups had created various administrative structures, federalism was necessary for administrative convenience.³²

In Nigeria, natural resources are dispersed, so component units must unite as a federation to harness the resources for their overall benefit³³; in addition to even and rapid economic development;³⁴ there has been suspicion among the various ethnic groups, particularly the major ones like the Yoruba, the Igbo, and the Hausa. Minority groups also feared that they would be subjugated by majority groups. Federalism thus provides opportunities for self-preservation by various parties, and the British policy of "divide and rule" was an intentional effort to maintain Nigeria's decentralization and weakness. The British viewed ethnic group unification as a danger to their imperialistic interests³⁵.

According to Appadorai³⁶: a federal state is one that has a central authority that represents the entire country and acts on its behalf in matters of international relations and domestic issues deemed to be of common interest, as well as provincial or state authorities with legislative and executive authority within their respective constitutionally assigned domains. In light of this, Herman Pritchett describes American federalism as³⁷ a polity in which the exercise of power is shared between two or more levels of government, each of which has the right to employ those powers and each of which acts on the same citizen body. Pritchett also stated that: when looking at the long arc of American history, there is an apparent trend towards enhancing the powers and responsibilities of the federal government, just as there have been instances when the centralizing trend was reversed³⁸. The central-local relationship, which is constant and pervasive, is the result of political strife, compromise, and consensus. Therefore, a consensus on methods for allocating governmental authority, responsibilities, and resources as fairly as feasible must be reached in order to resolve this conflict³⁹.

Although Nigeria technically⁴⁰ has a federal system of government, in reality the nation is moving toward a unitary one. Power distribution is hence Nigeria's issue with federalism.⁴¹ Federalism is reported to have been practiced in Nigeria since 1954. In actuality, the physical evidence points in the opposite way. That is, a unitary state is becoming a steadily more prevalent form of government. This is particularly true when it comes to the division of duties and⁴² resources between the national government and its constituent parts on the one hand, and between the government and its constituent parts on the other.

In a federal system, a component state's ability to sustain its economy is essential to ensuring⁴³ that it can continue to exercise the necessary autonomy. Currently, all 36 states of Nigeria, which also has a federal capital territory, receive the majority of their funding from the federation account. The administration of the Federal Republic of Nigeria has centralized too many functions that,⁴⁴ under a federal system, would typically fall under the purview of the federation's unit governments. Nigeria currently has severe political instability as a result of resource control. The legislative, executive, and even subsidiary administrations are all rife with corruption and lack of concern for national issues, which is nonetheless a clear indication of the effects of federal

31 *Ibid.*

32 *Ibid.*

33 *Ibid.*

34 *Ibid.*

35 *Ibid.*

36 Appadorai, A. (1975). *The Substance of Politics*. London: Oxford University Press 495.

37 Pritchett, CH. (1976). *The American constitutional system*, McGraw Hill 15.

38 *Ibid.*

39 *Ibid.*

40 Awa EO (1975) *Issues in Federalism*, Benin City, Ethiope Publishing Corporation 89.

41 *Ibid.*

42 Ajagun, SO (2004) *Federalism: Problems of Power Distribution in Nigeria Being A Seminar Paper presented at the Department of Public Administration, Ambrose Alli University, Ekpoma.*

43 Adolayan, MS. "The Problem of Taxation and True Federalism in Nigeria" *Ekiti State University Law Journal* (2013) Vol. 5 at 503.

44 Wokocha, RA *Resource Control in Nigeria. The Legal and Regulatory Challenges and Implications*, Civimics Publishers (Nig), Owerri, 2005 at 11.

control of resources. The current sovereignty over Nigeria's natural resources has encouraged economic dependence on foreign nations and foreign management of the Nigerian economy. The Nigerian economy is largely dependent on oil, and outsiders frequently influence any administration in Nigeria by manipulating or controlling the oil industry or market. They have the power to engineer social and political unrest and to bring down regimes at will. Consider the impact of the IMF and the Bretton Woods Institutions on the Nigerian government. This is where the Niger-Delta and other issues that are currently devouring the nation got their start. Because of the widespread ethnic nationalism, mistrust, and lack of faith in the federation, the very foundations of the country's cohesion and existence are in danger.

Twenty-eight (28) subjects are on the concurrent list and sixty-six (66) subjects are on the exclusive list. The residual list is not mentioned in the constitution. However, it is believed that the State will exercise the remaining powers based on tradition in most federations. The term "revenue allocation" refers to the division of the federal, state, and local governments' (Federal, State, and Local) revenue (revenue in the Federation Account) according to a constitutionally or legally specified formula. It also involves allocating government funds among the many departments at a certain level of government. Between the many levels⁴⁵ of government and the centre, revenue allocation has led to a great deal of dispute. Even though the Niger Delta generates well over 90% of the country's overall revenue, it is only entitled to a meager 13% of that sum, leaving the majority in the federal pool to be distributed among all of the member states and local governments. It is important to note that the people of the Niger Delta or the nine oil-producing States are not happy with this constitutional clause, which is why there is a demand for resource control.

State creation exercise appears to be another important and well-liked move taken by various governments in the nation to appease the underserved regions of the nation. Nigeria gradually transitioned⁴⁶ from its initial four-region structure before to 1966 to a system with thirty-six (36) States in 1996. The Mid-Western Region was added as a second region in 1963. The government's response to complaints of neglect from various parts of the nation has been to create states⁴⁷. The country will face more developmental challenges if economically unviable states are created since every state will then depend on the federal government for all of its demands. Over dependence results from this, which undermines the fundamental principles of federalism. This is already the situation with the majority of the States in the Federation.⁴⁸ However, the continued demand for creation of states is hinged on many factors. First, it will bring development close to the people. Second, the feeling of alienation and marginalization by some ethnic tribes would be assuaged to a large extent. This invariably will culminate in sense of belonging which is necessary for national integration.

There have been requests for the Nigerian police to be reorganized due to the nation's escalating rates of insecurity. This request has primarily taken two forms. Some advocate for the establishment of state police, which would cater to the demands of each state while strengthening the governors' authority as the states' top security officials (a duty currently carried out by commissioners of police chosen by the inspector general of police). Those who advocate for the establishment of state police contend that having a local law enforcement agency that is familiar with the local dynamics would ensure proper policing of the area and a drop in crime rates. However, some opposed to the establishment of state police have expressed concerns that they may easily be utilized by incumbent governors to target their rivals. Additionally, given the challenges some states face in paying the wages of their employees, some governments may find it difficult to fund their state police. They instead advocate for

45 Umukoro N. and Okon J. (2008) *Citizenship Education for Nigerians* Benin City, Mindex Publishing Company Limited at 81.

46 Ajagun, SO (2004) *Federalism: Problems of Power Distribution in Nigeria* Being A Seminar Paper presented at the Department of Public Administration, Ambrose Alli University, Ekpoma.

47 Ihonvbere, JO. (2004) *How to Make a Democratic Constitution: A paper presented at the International Conference on Government Policies, Constitutions and Ethnic Relations in Africa*, Morehouse College, Atlanta, Georgia

48 Akpotor AS. (1995) *The Dynamics of Federal Character in Nigeria: A Polity in Transition Self Reliance, Politics and Administration in Nigeria*, Department of Political Science, Edo State University, Ekpoma

reorganizing the current police formation to increase its effectiveness in the war against vulnerabilities in this country.

4. FEDERALISM IN THE UNITED STATES

Devolutionary federalism implements two related concepts⁴⁹. On the one hand, decentralizing policy and granting states and localities more power and accountability would basically deregulate the market for policies, enabling more experimentation and innovation in the development and delivery of public goods and services. On the other hand, a system that is sufficiently devolved fosters competition among market players and prevents the monopolization of policymaking. Devolutionary federalism is frequently believed to improve individual liberty through effective self-governance due to how close the government is knit together. This association is based on the notion that, other things being equal (such as electoral procedures and the authority granted to the government), voice is more effective in small political units than large ones because it is easier for one person or small group to organize a potentially successful political coalition in a localized community than in a large and complex polity⁵⁰.

5. CONCLUSION

Nigeria's history with federalism is tumultuous. It is necessary to share some powers from the federal government to the federating units under the exclusive list in the 1999 constitution as amended. In the United States, this is the standard. In order to encourage racial harmony and national cohesion among her people, Nigeria should draw a lead from this.

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⁴⁹ Graglia, LA Lopez Morrison, Raich: (2008) *Federalism in the Rehnquist Court* Harvard Journal of Law and Public Policy 31:761-93.
50 Ibid.

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