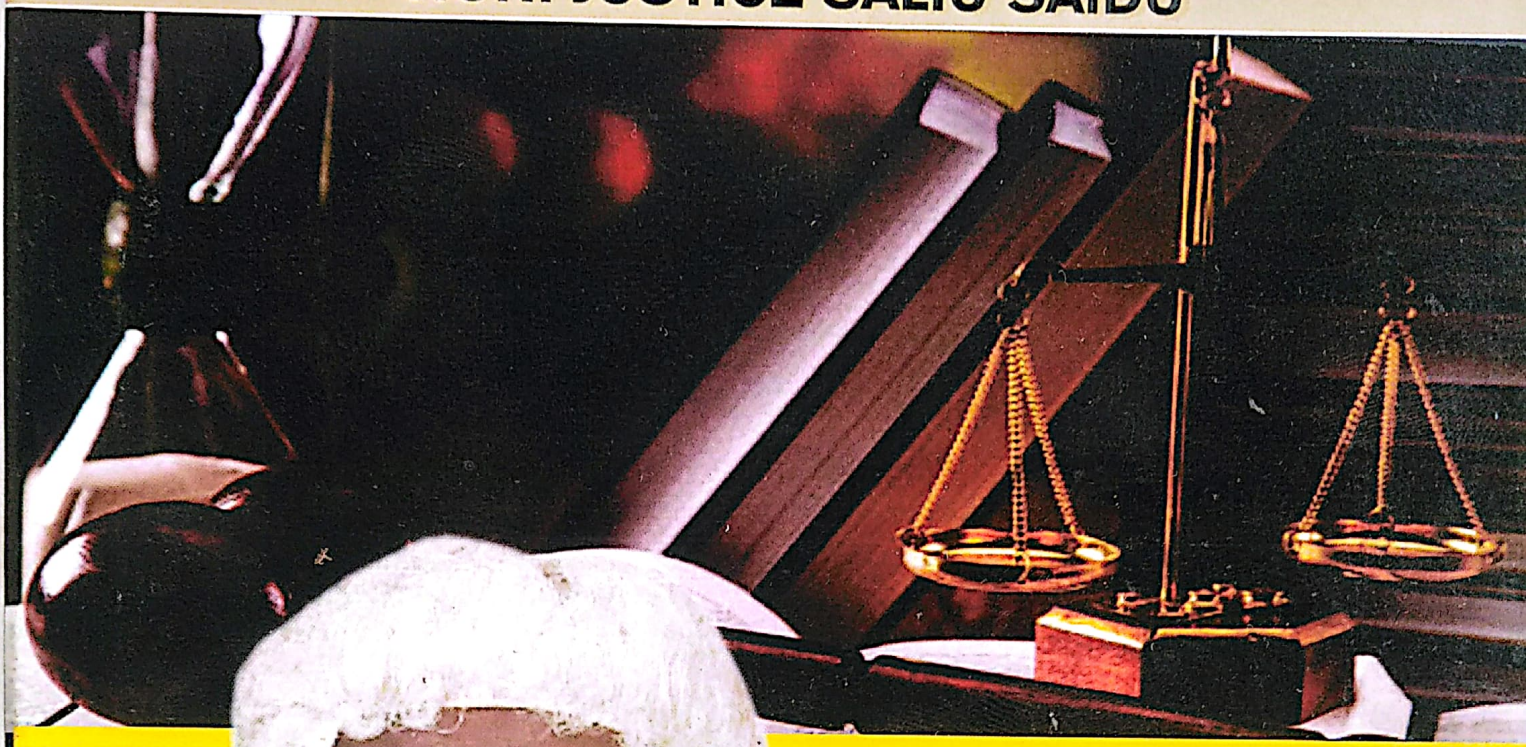
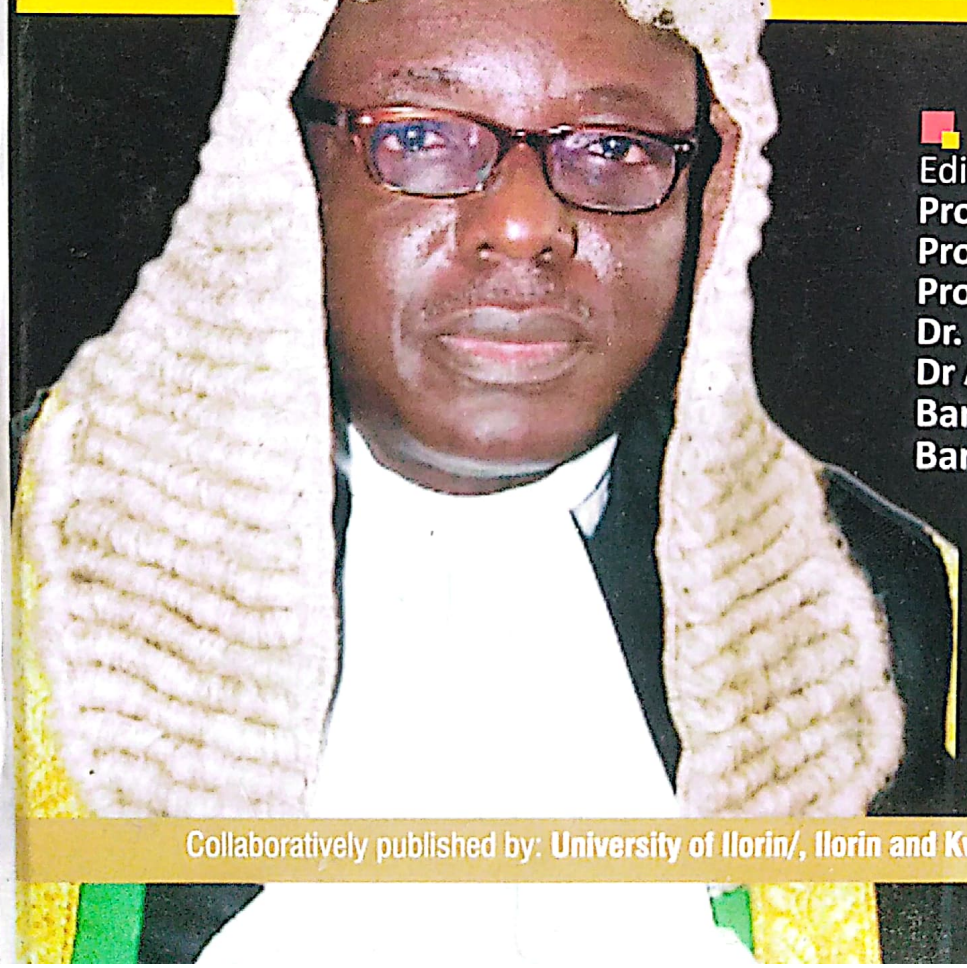
GLOBAL ISSUES AND NIGERIAN LAWS: ESSAYS IN HONOUR OF

HON. JUSTICE SALIU SAIDU





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GLOBAL ISSUES AND NIGERIAN LAWS:
ESSAY IN HONOUR OF HON. JUSTICE SALIU SAIDU

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CHAPTER EIGHT

LAW AND NIGERIAN FEDERALISM: ISSUES AND CHALLENGES

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ABSTRACT

Federalism is one in which governmental powers that exist in the country are shared between a central government and government of component regions, so that each government is legally and constitutionally independent and autonomous. However, the Nigerian federalism is been misdirect, mismanaged and plundered by people with personal agenda. The main aim of this paper is to examine the law and contemporary challenges of Nigerian federalism. This paper used doctrinal method of legal research work. Moreover, the paper observed that the major contemporary challenges of Nigerian federalism are Inter-ethnic rivalry and sectional domination of powers, Military invasion and over-centralisation of power at centre, Conflicts over Revenue Allocation Formula and resource control, Corruption in Nigeria and bad governance. These challenges require vital reactions and proper constitutional amendments. In view of this, the paper recommended that centralisation of Nigerian federation should be addressed via constitutional amendment, and all stakeholders should concentrate more on how to manage the present Nigerian federal structures towards ensuring national unity and integration, stability and development, rather than promoting superfluous division and disintegration.

Keywords: Federalism, Law, Constitution, Challenges and Nigeria.

INTRODUCTION

The Constitution of the Federal Republic of Nigeria, 1999 (as amended) by virtue of section 2 (2) states that Nigeria shall be a federation[3]. This is just as provided

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by the previous Constitution. Federalism is, therefore, a system of government in which governmental powers that exist in a country are shared between central government and other component unit's. The federal system, a devolved form of government with varying degrees of regional autonomy, suggests that a greater level of co-existence will be achieved. No doubt, the philosophical foundation upon which federalism is laid has the tendency to serves as a viable option for national unity and integration, as well as platform for good governance[4] Federalism is considered an effective way of achieving and preserving both integration and stability in deeply divided societies. Duchacek[5] argues that the dialectic and disparity between the geographic confines of territorial states on the one hand, and the boundaries of ethno-territorial communities on the other, seem to invite a federal solution.

However, Nigerian federalism in various writings has been described as 'weak", "fragile", "convoluted" and sometime "failed". Suberu[6] asserts that Contemporary debates about Nigeria's political and socio-economic failures have routinely implicated the presumed pathologies, incongruities and liabilities of the country's federalism, despite the massive transformation and reorganisations it has witnessed in 60 years of national independence. Yet, the Nigerian system of federalism is often seemed to be utopian rather than a viable solvent for, the country's multifaceted crises of poor governance, ethno-political conflict and socio-economic underdevelopment, notwithstanding quite a number of strategies put in place by successive governments to manage federal structural imbalance seemed to have yielded diminutive successes. Some of these efforts include the creation of states (36 States), adoption and establishment of National Youth Service Corps scheme (1973), introduction of a uniform local government system (1976), establishment of Federal Character Commission and adoption of federal character principle (1978). Others include the relocation of Federal Capital Territory to Abuja (1991), introduction of revenue sharing formula, creation of Niger Delta Development Corporation (NDDC) (2000), and

---

3 *A governmental that consists of a union between a central authority and the component parts where the centre is empowered to stand in for the components in matters of foreign relation and some other matters that may be shared in common among all the components, while matters of domestic nature are reserving to the individual component parts.*

4 J. O. Nkwede, K. O. Dauda and, O. A. Orija, 'Federalism and Contending Issues in Contemporary Nigeria: Mapping Alternative Perspectives for a Neo-Federalist Paradigm' (2018) 14(10) Asian Social Science 11-119.

5 I. Duchacek, *Comparative federalism: The territorial dimension of politics* (New York: Holt, Rhinehart and Winston1977).

6 R. Suberu, 'The Nigerian federal system: Performance, problems and prospects' (2010) 28 (4) Journal of Contemporary African Studies 459-477.

establishment of Unity schools, among others. These measures, as argued by scholars and analysts, have not worked adequately to promote true federalism.[7]

The contemporary crisis of the Nigerian federal system, therefore, represents a tragedy of incomplete reform in which the democratic and developmental deficiencies of the federal framework have gravely undermined the system's otherwise remarkable achievements in enhancing inter-group security and unity. Consequently, the challenge of federal reform is not to fundamentally reconfigure or restructure current institutional structures of ethnic conflict management. Rather, robust institutions of democratic and economic development, including true power sharing and autonomy, fairly resource allocation and anti-corruption reforms, are needed to reinforce and enhance current federal processes for cauterising ethnic instability.[8]

Moreover, Federalism no doubt represents an institutional mechanism through which intra societal plural elements can be accommodated and protected.[9] The adoption of the system in Nigeria can therefore be viewed in the context of this virtue of federalism, because ever since adoption[10] the high hopes and aspirations which propelled its adoption seem not to have been fully transcended as evidenced in series of agitations by scholars.[11] However, this cannot be attributed to failure or inefficiency of the system, but rather to the competing political elites often paint the system and its operators (political leaders) at any particular time in much negativity thereby eroding its good sides from public glare. Consequently, Nigerians have not really done much in appreciating the gains of the system in over fifty years of its operation as there is a call for 'true federalism' in the country. In a nutshell, this paper will examine the concept of federalism, law and Nigerian federalism, rational for adoption of federal system in Nigeria, and issues and challenges of Nigerian federalism in a bid to recommending a way forward.

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7 D. B. Enu, F. A. Opoh and P. E. Bassey, 'Balancing the imbalances in the structure of Nigeria federalism: The civic educators' perspective' (2017) 2(1) International Journal of Advanced Research in Public Policy, Social Development and Enterprise Studies 71-82.

8 *R. Suberu, 'The Nigerian federal system: Performance, problems and prospects' Op. Cit 459-477.*

9 O. Awofeso and N. G. Obah-Akpowoghaha, 'The challenge of federalism and its implications for the Nigerian State' (2017) 8 (3) International Journal of Politics and Good Governance.

10 *about six decades ago*

11 A. S. Obiyan, *Federal State Relations and Nigerian Federalism: Decentralization inDisarray* In F. Omotosho, A. A. Agagu and O. Abegunde (Eds), Governance, Politics andPoliticies in Nigeria: An Essay in Honour of Prof. DipoKolawole, Port Novo: SonouJ'Afrique (ESAF 2010) 156-172.

Concept of Federalism

The term "federalism" means different thing to respective individuals. The concept of federalism, according to Wheare[12] federalism or federal principles, stand in for the division of law making authorities in a federal system between the central authority of the federation and the authority of the component part of government and the vesting of autonomy to each of these governmental authorities in a way that none can interfere with the legislative authority of the other. Accordingly, it a means of separating powers in so that the central authority and provincial component parts are each within a sphere co-ordinate and autonomous. This definition by Wheare centred strictly on division of legislative power and it formed a classical definition of the term "federalism".[13] In the same vein, Appadorai[14] asserts that:

A Federal State is one in which there is a central authority that represents the whole and acts on behalf of the whole in external affairs and in such internal affairs as are held to be of common interest and in which there are also provincial or state authorities with powers of legislation and administration within the spheres allotted to them by the constitution.

Furthermore, McMillan[15] observes that federalism suggests that everybody can be satisfied by nicely combining national and regional interests within a complex web of checks and balances between a national or federal government, on one hand, and a multiplicity of regional government, on the other hand. Also, Enu et a [16]depict federalism as a system of government whereby governmental powers and economic structures of a country are shared between Central government and component federating units. Burgess[17], in his political ideas on the issue of federalism asserted that the organization of any federal alternative is a combination of political agreement among a diverse historical setting. According to him, there are two requirements for creating federal state: needs to enlarge their territorial influence either to meet an external military or political

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12 *K. C. Wheare,* Federal Government *(New York: Oxford University Press, 1963) 10.*

13 *Amah Emmanuel Ibiam 'Federalism, Democracy and Constitutionalism: The Nigerian Experience' (2016) Vol.53 Journal of Law, Policy and Globalization 1.*

14 *A. Appadorai,* The Substance of Politics *(New York: Oxford University Press, 1968), 495.*

15 I. McLean and A. McMillan, *Oxford concise dictionary of politics.* (New York: Oxford University Press 2003) 195.

16 *D. B. Enu, F. A. Opoh and P. E. Bassey, 'Balancing the imbalances in the structure of Nigeria federalism: The civic educators' perspective' Op. Cit. 71-82.*

17 M. Burgess, 'Federalism and Federation: A Reappraisal' In Burgess, M. and Gagnon, A (eds.) *Comparative Federalism and Federation.* (New York, Harvester Wheatsheaf 1993a) 3-14.

intimidation or to prepare for them and; needs for cooperation in order to reinforce the pact.[18]

On the regional autonomy as regarding, Kapur[19] federalism recognizes essential characteristics of a federal system to embrace the need for unification, the will to lose sovereignty by the states involved as soon as a federation is formed, mechanism of two parts (Central and Regional governments), written and rigid constitution, supremacy of the constitution and permanency. Accordingly, It foresees a dual government of separated powers. Therefore, federalism entails a beliefs, approach, principle or assumption that illustrates how a plural state should be administered, shared of governmental powers, and sustained inter-governmental relationship between autonomous states[20]. In a similarly view,. Federalism, according to Montesquieu, is a gathering by which numerous related states are in agreement to become members of a larger one. Federal state is also seen as one in which component of authority and power is vested in the local areas while another part is vested in a central institution deliberately constituted by an association of local area.[21] According Livingston, federalism is a plural society of multi-ethnic groups with different historical, cultural and linguistic backgrounds with distinct location and boundary. This aligns with view of Sagay[22] that if a country is unilingual or bilingual or multi-lingual, and also consists of communities which, over a period of years, have developed divergent nationalities, the constitution must be federal. Nwabueze[23] throws more light on the concept, by stating that:

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18 R. J. K. Chapman, 'Structure, Process and the Federal factor: Complexity and Enlargement in Federations' in Burgess, M. and Gagnon, A. (eds) *Comparative Federalism and Federation* (New York, Harvester Wheat sheaf 1993) 69-93.

19 Kapur, A.C., *Principles of political science.* (New Delhi, India: S. Chand & Co. Ltd. 2006).

20 J. O. Nkwede, K. O Dauda & O. A. Orija,'Federalism and Contending Issues in Contemporary Nigeria: Mapping Alternative Perspectives for a Neo-Federalist Paradigm' Op. Cit. 11-119.

21 M. Burgess, 'Federalism and Federation: A Reappraisal' In Burgess, M. and Gagnon, A (eds.) *Comparative Federalism and Federation.* (New York, Harvester Wheatsheaf 1993a) 3-14; M. Burgess, 'Federalism As Political Ideology: Interests, Benefits and Beneficiaries in Federalism' In Burgess, M. and Gagnon A. (eds). *Comparative Federalism and Federation* (New York, Harvester Wheat sheaf 1993b)102-114.

22 Itse Sagay 'NIGERIA: Federalism, the Constitution and Resource Control' Text of speech delivered by Professor Sagay (SAN), former Head of Law Department of University of Benin, at the fourth sensitisation programme organised by the Ibori Vanguard at the Lagoon Restaurant, Lagos. 19th may 2001. <http//www.nigerdeltapeoplesworldcongress.org/articles/Nigeria_fedralism_.pdf> accessed 12 August 2020.

23 *B. O. Nwabueze,* Federalism in Nigeria *(London; Sweet & Maxwell 1983.)*

Federalism is an arrangement whereby powers of government within a country are shared between a national (nation-wide) government and a number of regionalized (i.e. territorially localized) governments in such a way that each exists as a government separately and independently from the others, operating directly on persons and property within its territorial area, with a will of its own, and its own apparatus for the conduct of its affairs and with an authority in some matters exclusive of all other.

A federation is therefore a congregation of different autonomous and self governing political organization with a central body assembled in such a manner that both the central body and the individual autonomous units maintain their respective control over the citizens in a manner prescribed by the state' constitution, such constitution being usually made by the people either directly or through representatives elected by the citizens for that purpose[24]

Finally, federalism may possess considerably differences in numerous respects, however certain basic commonality of characteristics and principles should exist between the centre authority and the components for assurance of a truly federalism.[25]

Rationale for Adoption of Federalism in Nigeria

The rationale for Adoption of federal system of government in Nigeria can be deduced from two schools of thought. The first school of thought considers that the veracities of the Nigeria's history coupled with professed economic advantage accruable from diverse ethnic setting as well as geographical and political factors made federalism appealing to nationalists prior to self-government. These factors were reinforced by growing suspicion and fear of domination by the North against the West and the East against West or the North.[26] Therefore, it became appropriate to have a system of government that will grant units considerable freedom and autonomy in the internal governance of their people. This need was found fulfilled in federal choice since it is inherently decentralized. The emphasis here is that, Nigeria's nationalist leaders have long before self-government became persuaded and arrived at the decision

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24 D. J. Elezar, 'Federal System of the World'(1994), A Hand Book of Federal, Confederal and Autonomy Arrangements; Harlow, Essex: Longman, 3, JCPA online <http://www.jcpa.org/dje/books/fedsysworld-intro.htm. > accessed 12 September 2020.

25 Amah Emmanuel Ibiam 'Federalism, Democracy and Constitutionalism: The Nigerian Experience' Op. Cit. 2.

26 J. Isawa Elaigwu, *Nigeria: Yesterday and Today for Tomorrow Essays in Governance and Society* (Jos: AHA Publishing House, 2005) 139-153.

that the nation could only continue to exist in the spirit of a true. For illustration, this was one of the views of Dr. Nnamdi Azikiwe, the Nigeria's first President (1960-1966), when he campaigned for a 'federal commonwealth of Nigeria'[27]. It was also argued by Awolowo in his books, 'Path to Nigerian Freedom' and 'Thoughts on Nigerian Constitution' 1947and 1966 correspondingly.[28] Similarly, Nigeria's first Prime Minister, Sir Abubakar Tafawa Balewa was reported to have argued the case for a federal option in the following words:[29]

I am pleased to see that we are all agreed that the federal system is, under the present conditions, the only sure basis on which Nigeria can remain united. We must recognize our diversity and the peculiar conditions under which the different tribal communities live... therefore, we must do all in our power to see that this federal system is strengthened and sustained.

In nutshell, the first school of thought is of the view that the nationalist leaders had a strong preference for federation while the British merely provides the conducive atmosphere for its establishment.[30]

The second school of thought, on the other hand, sees the adoption of federalism in Nigeria as externally inspired. Federalism is seen as a British imposition meant to serve the political interest of the British alone. It is therefore nothing but a set-up of British rule for the motive of administrative expediency of the colonial state apparatus.[31] The argument of this school is that, even before 1954 when federalism officially evolved, the nation had been a collection of diverse sub-cultures administered unitarily, to shortly introduce the federal system therefore shows nothing but the self interest of the British. It is the belief of a number of scholars that different to the generally shared view of accomplishing unity in diversity, federalism was established as a divide and rule strategy and to this extent was a dreadful, disorderly and divisive British legacy.[32] Also, from this school, are scholars who do not share the belief of federalism as a

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27 N. Azikiwe, *Political Blue Print of Nigeria* (African Books Company Ltd. Lagos 1943).

28 O. Awolowo, *Path to Nigerian Freedom* (London, Faber and Faber 1947); O. Awolowo, *Thoughts on Nigerian Constitution* (Ibadan, Oxford University Press 1966).

29 J. I. Elaigwu, 'Federalism, Institutional and Political Stability in the Context of Vision 2010'(2000) 1 (1) African Journal of Federal Studies 41- 42

30 *O. Awofeso and N. G. Obah-Akpowoghaha, 'The challenge of federalism and its implications for the Nigerian State' (2017) 8 (3) International Journal of Politics and Good Governance.*

31 H. Alapiki and P. G. O. Odondiri, 'Federal-State Relations in Nigeria' in Henry, E.A. (ed). *Human Development Issues in Nigeria,* (Owerri, Spring Fold Publishers 1992).

32 O. Awolowo, *The Peoples Republic* (Ibadan, Oxford University Press 1968).

divide and rule strategy but rather as a strategy for decolonization.[33] According to Ayoade[34], such a strategy was either projected to trim the price of colonial administration as in east and central Africa or to arrest internal divisive propensities as obtained in Nigeria. However, others have disagreed that the system was forced on the nation so as to sustain a neo-colonial state apparatus for successful control of the nation after independence since British colonialists had the chance to de-emphasize the particularistic propensities of the diverse tribal groups in the nation but for selfish motives, they ended up building 'structural imperfections to bedevil inter-ethnic relationships after independence.[35]

Arising from the above background, certain facts become understandable about the development of federalism in Nigeria. It is apparent that certain factors made federalism enviable if the nation was to keep on united. Consequently, one can barely question the foresight of the Nationalist leaders who out of the aspiration to have self rule along with shared rule opted for the federal resolution. Equally, the British overlords could not have pretended not to know that it was the most suitable for a heterogeneous culture like Nigeria, though other pecuniary deliberations may have influenced the option. In furtherance, the British would not have forced federalism in the nation if situations had dictated otherwise. In another expression, acceptance of federalism in Nigeria is neither an exclusive action of the British nor that of the nationalist leaders alone but rather, it was a common aspiration of the two parties. It is on this note that Watts[36] rightly made this summit while explaining the significance of the federal suggestion in the post 1945 era. He said that:

... the creators of the new states approaching Independence found themselves faced with simultaneous Conflicting demands for territorial integration and balkanization. They had to reconcile the need, on the one hand, for relatively large economic and political units in order to facilitate rapid economic development and to sustain genuine political independence, with the desire, on the other hand, to retain authority of the smaller political units with traditional

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33 J. I. Elaigwu, 'Nigeria: The current state of the federation: some basic challenges' (2007) Paper presented at International Conference on Federalism in Honour of Professor Ronald Watts, Organized by the Institute of Intergovernmental Relations, Queens University, Kingston, Canada, October 18-21, 2007.

34 J. A. A. Ayoade, *Federalism in Nigeria: The problem with the solution* (1998) *being a Faculty lecture delivered at the University of Ibadan*. Ibadan: Nigeria.

35 P.O. Okhaide, 'Federal-State Relations' In Imobighe, T.A. (ed.), *The Politics of the Second Republic* (Kuru, Nigerian Institute for Policy and Strategic Studies 1992) 535-565.

36 R. L. Watts, 'The Contemporary Relevance of the Federal Idea' (2000) 1 (1) *African Journal of Federal Studies* 5.

allegiances representing racial, linguistic, ethnic and religious communities. In such situations, where the forces for integration and separation were at odds with each other, political leaders of nationalist independence movements and colonial administrators alike found in the "federal solution" a popular formula, providing a common ground for centralizers and provincialists.

An important question that draws from the above examination is that, if mutual fears and suspicion of domination among groups, quest for self determination, economic prosperity, desire for unity in diversity among other compelling factors drive a federation of Nigeria, to what extent then have these imperatives been transcended many years after adopting the system? This calls for an examination of the theory and practice of federalism. On the contrary, it could be understood or argued that the acceptance of federalism in Nigeria was a resultant effect of myopic nationalist consensus owing to the colonialist penetration and thus Nigerian state has been portrayed as a disjointed state happening from a disjointed society leading to disjointed institutions.[37] Its adoption was a part to self determination from the British government. Thus, the existing predicament in the Nigerian state in area of revenue allocation formula, debt of states arising from huge reliance on crude oil products through federal allocation, outright lack of initiatives for economic diversifications by subsequent state governments have posed a lot challenge to having a robust federalism in Nigeria[38]

Law and Nigerian Federalism

The key law regarding the pattern of Nigerian federalism is Nigerian constitution. And, the constitution in focus is the Constitution Federal Republic of Nigeria, 1999 (as amended). Being the current constitution in use, that provides for the federal system arrangement with an idea of promoting the unity of the entire country by creating space for the political autonomy of the different sections of Nigeria [39] Going through the constitution, the following features and arrangement shall be examined to showcase pattern at which a true federalism is expected to be run. Thus:

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37 *O. Awolowo, The Peoples Republic (Ibadan, Oxford University Press 1968).*

38 *J. Isawa Elaigwu, Nigeria: Yesterday and Today for Tomorrow Essays in Governance and Society (Jos: AHA Publishing House, 2005) 139-153.*

39 *See s 1(1) and s 2 (2) CFRN, 1999 (as amended); see A.G. Ondo v. A.G., Federation (2002) 9 NWLR (Pt. 772) 222 SC.*

Legislative Power and the State's Autonomy

The idea of division of powers under the Nigerian federalism is that matters of common interest and concern to the generality of the country should be allocated to the central authority (the federal government), while matters that are evidently and clearly regional or local in nature, as the case may be, should be allocated to state governments.[40] Hence, matters such as, foreign policy, national defence banking and currency, and what have you are usually placed within the domain of the federal government, while all regional or local matters such as social services, primary and secondary education and public health, public welfare and other local matters are assigned to state governments. Note that this power can be either be under exclusive or concurrent legislative list of the constitution. According to Nwabueze[41] the authority to legislate on the Exclusive Legislative list is vested in the federal government and the states may legislate on the provinces specified in the list, only to the extent expressly authorized by the federal law, while the powers to legislate on matters specified in the concurrent list belong to both the federal and state governments and such matters include Allocation of Revenue, Collection of Taxes, and Electoral laws, to mention a few. Note that there is no constitutional provision either expressly or impliedly as to bestowing of any legislative power or function on the local government councils. Whereas, the Constitution just provides the list of functions of the Local Government Council as the third tier of government in the federalism arrangements[42]. Similarly, no provision in the Constitution has empowered the National Assembly to make laws affecting local government councils.[43] Thus, all legislative functions not provided for in the Exclusive and Concurrent legislative list belong to the state's governments. This position of law is settled in *A.G. Lagos State v A.G. Federation*[44] where there exist a battle between the Lagos State Government, during the reign of former Governor Asiwaju Bola Ahmed Tinubu, and the Federal Government, over the creation of Local Governments and the seizure of Lagos State Revenue Allocation to punish Lagos State for the act without approval from the Federal Government. On the matter, the Supreme Court stated that:

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40 *J. I. Elaigwu, P. C. Longams and H. S. Galadima,* Federalism and Nation Building *(Publ: National council of inter. 2008), 64*

41 *Nwabueze B.O*, Federalism in Nigeria *(London; Sweet & Maxwell 1983) 41; Note that Exclusive Legislative list has 68 items, while the concurrent Legislative list has 12 items.*

42 *See the fourth Schedule CFRN, 1999 (as amended).*

43 *See s 7(1) (6)(b) and 197 and item 22 of the Second Schedule Pt 1CFRN, 1999 (as amend);. A.G. Abia v. A.G. Federation (2002) 6 NWLR (Pt. 763) 264, (2006) 16 NWLR (Pt. 1005) 265 SC.*

44 *(2003) 12 NWLR (Part 833)1.*

Sections 1, 2 & 3 of the new Local Government Area Law No. 5 of 2002 Lagos State in fact constitutes the law which was enacted by the Plaintiff in accordance with the provisions of Sections 7(1) and (3) of the Constitution, the law is therefore valid....

Similarly, if any law made by a State House of Assembly is in conflict with any law validly acted by the National Assembly, the law made by the National Assembly shall prevail, and that other law of the state shall be null and void.5 this constitutional provision showcases the principle of 'Covering the Field' a declared by the Supreme Court in A. G. Ogun State v A. G. Federation[45] where J.S. C. (as he then was) stated that:

Where a matter legislated upon is in the concurrent list and the Federal Government has enacted a legislation in respect thereof, where the legislation enacted by the State is inconsistent with the legislation of the Federal Government, it is indeed void and of no effect for inconsistency. Where however the legislation enacted by the State is the same as the one enacted by the Federal Government, where the two legislations are in pari materia I respectfully take the view that the State legislation is in abeyance and becomes inoperative for the period the Federal legislation is in force. I will not say it is void. If for any reason the Federal legislation is repealed, it is in my humble view that the State legislation, which is in abeyance, is revived and becomes operative until there is another Federal legislation that covers the field.

Specifically on the State's autonomy the Supreme Court, in *A. G. Lagos State v A. G. Federation*[46], stated that:

By the doctrine of federalism which has been adopted by section 2(2) of the 1999 Constitution, the autonomy of each government which presupposes its separate existence and its independence from the Federal government is essential to federal arrangement. Therefore, each government exists not as an appendage of another government but as an autonomous entity in the sense of being able to exercise its own will in the conduct of its affairs free from direction by another government.

In the same vein, constitutional provisions that infringes on the federal principle of autonomy includes the provisions granting powers to the National Assembly in

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45 *(1982) 3 N.C.L.R.P. 166*
46 *(2003) 12 NWLR (Part 833)1.*

matters relating to the creation of a local government authority[47], provisions empowering the federal government to directly allocate money to the local government Authorities,[48] among others. It is pertinent to note that the involvement of the federal government in this way would abolish the distinction between matters of local government concern and those of federal government concern. whereas the matter of local concern should be primarily for the state government.

From the foregoing, there is no doubt that there is the need for a practical balance of division of the legislative powers between the federal government and the state governments as well as a robust and well defined autonomy of state under the constitution.

Constitutionalism and Rule of Law

Constitution and rule of law are distinct, but related principles in the practice of true federalism.[49] The constitution is supreme as all body of authority, functionaries of government and persons are subordinated to the Constitution.[50] By implication, all actions and omissions contrary to the Constitution shall be null and void and cannot hold water. The rule of law, On the other hand, connotes governance in according with the available laws of the land including the constitution.

No doubt, the two principles are fore assurance of true federalism in Nigeria as the constitution provides that:[51]

This Constitution is supreme and its provisions shall have binding force on all authorities and persons throughout the Federal Republic of Nigeria. The Federal Republic of Nigeria shall not be governed, nor shall any person or group of persons take control of the government of Nigeria or any part thereof, except in accordance with the provisions of this constitution. If any law is inconsistent

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47 *S 8(5) CFRN, 1999 (as amended).*

48 *S 162(5). Ibid,*

49 *Constitutionalism emphasizes adherence to the constitutional provisions, while the rule of law advocates that all government and individual actions are in compliance with the law including the constitution. Rule of law advocates;. equality before the law; independence of the judiciary; obedience/respect to the decision of the court, and that citizens can only be tried under a written law. Rule of law has its origin from Aristotle when he postulated that it is better for the law to rule than a single man.*

50 *S 1 (1) CFRN, 1999 (as amended).*

51 *Ibid.*

with the provisions of this Constitution, this Constitution shall prevail and that other law shall to the extent of the inconsistency be void.

For illustration, Nigerian and judiciary have been upholding the principle of constitutionalism and rule of law as enshrined in the constitution in bid to ensuring a true federal system illustrated in *Amechi v INEC*[52] and *Governor of Lagos State v Ojukwu*[53] where all parties in the matter complied with the decision of the court.

Separation of Power

By separation of power, it means that no arm of government among the 3 arms shall take over the constitutional powers conferred on the other. Thus, the 3 arms are equal, inter-related and separate in terms of their respective constitutional mandates and powers.[54] Many scholars have their voices in the attempt to define the significance of this principle or doctrine of separation of power. On the note and for illustration, Malemi[55] posits that:

Separation of powers is the division of powers and functions of government among the three independent and separate arms of government; that is, the legislature, executive and the judiciary, to act as a check and balance on one another and prevent the excess and abuse of powers. Thus, separation of powers is the constitutional doctrine of the division of the powers of government into the three branches of legislative, executive, and judicial powers, each to be exercised by a different group of persons as a means of check and balance in the government. One branch of government should not encroach on the domain of another branch of government nor exercise the powers of another branch of government.

In the same vein, The Nigeria Supreme Court in Ugba *v Suswan* asserted that:

The Constitution sets up a federal system by dividing powers between the federal and state governments. It establishes a national government divided into three independent branches. The executive branch makes the law, while the judiciary explains the law. There is no document superior to the Constitution in Democratic Governance. It is the heart and soul of the people...

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52 *(2007) 9 NWLR (Pt. 1040) 504 CA*

53 *(1986) 1 NWLR 621, 647*

54 *S 4, 5 & 6 CFRN, 1999 (as amended).*

55 *Ese Malemi,* Administrative Law *(Lagos, Princeton Publishing Co, 2008) 3rd edition 56-57.*

responsibility of the National Assembly according to that section. Note that, for example, the insistence of the President Buhari on Mr. Magu as EFCC boss, grant of bailant funds to States unilaterally, or raid on judges disobedience to court order, may be considers impeachable misconducts offences.[63] This evidently account for overtaken the power of other arms by the president (Executive) and thereby showcases fusion of power as opposed the true federalism enshrined in the Nigerian constitution.

Protection of Minority rights

One of the major rationales and compelling factors that drove a federation of Nigeria into existence was a desire for unity in diversity. Hence, the need for protection of the minority group federation of Nigeria is crucial and indispensable for assurance the unity sought. Protection of the minority rights is encapsulated in the Nigerian Constitution. No doubt, there exist a number of various areas of discrimination against the minority group in Nigeria. These areas include; discrimination against access to socio-economic opportunities provided by government; discrimination against representation in government; discrimination against use and development of minority languages and cultures; violation of the rights of minority religious groups to practice and propagate their religion on equal terms as the majority religions; suppression of minority political groups, and discrimination against control and manage natural resources located within their respective communities.[64]

The 1999 Constitution[65] has highly structured provisions that guaranteed protection of the rights of the minority groups in the country. These protections are encapsulated into the fundamental human right enshrined under Chapter IV of the constitution. For illustration, Minorities right to religious freedom by virtue of Section 38 of the Constitution[66] is unequivocally guaranteed that everyone has right to religion of his or her choice as well as right of irreligion. By extension, the rights include; the rights of the individual and minority groups to propagate a chosen religion, the right to maintain a place of worship in association with others of the same religion, the right not to be compelled to accept or learn religious instruction or ceremony different from one's own, and the right not to be restricted from giving religious instructions to pupils belonging to one's

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63 *Uwadineke C. Kalu, 'Separation of Powers in Nigeria: An Anatomy of Power Convergences and Divergences' Op. Cit. 121*

64 *Amah Emmanuel Ikiam 'Federalism, Democracy and Constitutionalism: The Nigerian Experience' Op. Cit. 10.*

65 *CFRN 1999 (as amended)*

66 *Ibid.*

religious community.[67] In the same vein, all other rights as contained under Chapter IV of the constitution[68] include: the right to life[69]; the right to dignity of human persons[70]; the right to personal liberty[71]; the right to fair hearing[72]; the right to private and family life[73]; and among others. All these are constitutionally guaranteed equality of citizen irrespective of any group (minority or majority), tribe, religion and socio-political status. Thus, any person who alleges any breach of his or her rights under Chapter IV may seek redress in the High Court as decided in *Ojukwu .v. Government of Lagos State*[74].

In a nutshell, it can be concluded that there are substantial provisions in the Constitution[75] for the protection of the rights of the minority groups in Nigeria. However, a stronger political will required to enforce the rights for a stronger assurance of a true federalism.

Democracy Arrangement under the Constitution

To guarantee a true federalism in Nigeria, the law of the land (the Constitution) has strived towards providing a workable democracy that accommodates political parties[76], institutions like the Electoral Commission, the electorates, political actors, voting behavior, political leadership etc. The democracy arrangement as enshrined in the Nigerian Constitution[77] guarantees a periodic election for four years interval for the offices of the President, the vice President and members of the National Assembly as well as those of the state governors and their deputies and members of the state Houses of Assembly.[78]

In this arrangement, the constitution provides for the establishment of the Independence National Electoral Commission as an independent body or

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67 *Amah Emmanuel Ibiam 'Federalism, Democracy and Constitutionalism: The Nigerian Experience' Op. Cit. 10.*

68 *CFRN 1999 ()as amended)*

69 *S 33, ibid.*

70 *S 34, ibid.*

71 *S 35, ibid.*

72 *S 36, ibid.*

73 *S 37, ibid.*

74 *Ojukwu .v. Government of Lagos State (1986) 1 NWLR, pp. 621-719*

75 *CFRN 1999 (as amended).*

76 *See s 40 CFRN 1999 (as amended) which guarantees right to peaceful assembly and association.*

77 *CFRN 1999 (as amended).*

78 *The tenure of the officers of the local government councils is dependent on the laws of the individual Houses of Assemblies*

institution.[79] Besides, paragraph 14 of part 1 in the third scheduled of the constitution provides for the membership of the Electoral commission, while paragraph 3 of part II made provisions for the states Independent Electoral Commission. All these constitutional provisions regarding democracy arrangement are tailored towards true federalism as both the majority and minority groups formed the political parties and the electorates to speak up their individual voices through the voting system.

No doubt, the provisions in the Constitution relating to conduct of election are practicable, but most aspects of these provisions are filled up with clear contradictions capable of eroding the true federalism. For illustration, the constitution has been criticized for granting the president the sold power of appointing the Electoral Commission Chairman (INEC Chairman) subject to the approval of the National Assembly though. This has weaken the independent of commission, INEC. In addition, the multi-party system in place has not done any good to Nigeria as there are a lot of regional based political parties which are invariably distorting the true federalism as enshrined in the constitution, because the parties feel they are being political marginalized.

Contemporary Challenges of Nigerian Federalism

Despite political independence in 1960, Nigeria has been reeling from one problem to the other, which make cohesion difficult.[80] The below are the contemporary challenges of Nigerian federalism:

Inter-ethnic rivalry and sectional domination of powers

The main reason for ethnic rivalry in Nigeria is a lack of cohesion and the inability of the parties concerned to concede the defeat in order to promote national peace and unity. As we know, Nigeria is made up of the diverse group of people with different ethnic groups and the rivalry among Hausa/Fulani, Yoruba and Igbo has become a serious issue over time. This inter-ethnic rivalry has been a manifest since the early 1950s when each of the major three political parties sought to dominate and control the national government largely in the interests of the section of the country they emerged from. This continued until the demise of the first republic. Since the independence, it is not unusual to see that most of the policies, programmes and appointments favour the ethnic group of the

79 *S 153(1) (f) and s 158(1) CFRN 1999 (as amended).*

80 O. B. Orluwene, 'The Challenges and Pathologies of Nigerian Federalism' (2018) 6 (1) *Social Science and Law Journal of Policy Review and Development Strategies 72-87.*

incumbent head of state/government. Thus, this confirms the mistrust as well as the fear and suspicion of sectional domination of powers.

Sectional domination of powers and political leadership in Nigeria cannot be ruled out. It is vividly clear from available evidences that the motive behind the division and eventual amalgamation of the separate unit of ethnic groupings and political entities was not intended to serve the national interest; rather it was meant to promote sectional nepotism interest. [81]This is decidedly pointed out in the explanation made by Falola and Heaton[82] as thus:

The ostensible reason for amalgamating the Nigerian Protectorates was economic...the economy of the Northern Protectorate had floundered under indirect rule and had not become fully self-financing as of 1914. Taxation had not produced enough revenue to cover the administrative needs of the Protectorate, and commerce had not grown sufficiently to make the region profitable. To finance itself, the Northern Protectorate relied on annual subsidies from Southern Nigeria and an imperil grant-in-aid from the British government to the tune of approximately £300,000.

Fast forward to independence, the Northern hegemonic dominance was argued to be accountable for the first military coup in Nigeria in 1966 83. It is inconceivable trend that out of sixty (60) years of Nigeria's political self-government, the North had governed the nation for over 38 years, while the South altogether had governed only for about 22 years. In addition, the North has 19 States, while the South possesses 17 States. In the sharing of head of ministries, security chiefs and so on, the North takes majority. The implication/consequence of this is that other ethnic groups and regions have been made subservient to the Northern region since beginning till date. Its consequent result is the appearance of string of ethnic militants armed with the thought of standing against the injustice for being short-changed in the sharing and distribution of powers and resources 84. The federal society, according to Livingston, is a plural society of multi-ethnic groups with different historical, cultural and linguistic backgrounds with distinct location and boundary. This proposition uncovered the nature of Nigeria society. on basis that there are over two hundred fifty tribes in the country but these tribes attempt to influence the system by their aspiration, the approaches that subsequence government tried

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81 *J. O. Nkwede, K. O. Dauda and, O. A. Orija, 'Federalism and Contending Issues in Contemporary Nigeria: OP.Cit 11-119.*

82 T. Falola and M. M. Heaton, *A history of Nigeria* (London: Cambridge University Press 2008) 117.

to initiate is by creation of a leprosy state and this has liquidated the power of states to the federal government.

Military invasion and over-centralisation of power at centre

The Nigerian military to some scholars have caused a lot of harm or impediment to the Nigerian state. It is crystal clear that what currently practicable in Nigeria is over-concentration of powers at the Centre as against the philosophy of a true federalism.[83] The long-term military rule in the nation, lasting about 30 years, hindered its federal practices/arrangements. Since military believes in hierarchy and centralization, it became very hard for them to observe doctrine of federalism in the genuine sense. The first military head of state, Aguiyi-Ironsi, legalized unification decree in May 1966 which invariably changed Nigeria into unitary state in practice. On this note, Alao[84] asserted that Decree No. 33 that was brought into play by the first military government dealt a real blow to the Nigerian state particularly her bid to maintain federalism. Therefore, this Decree was embodied with centralisation of all governmental organizations and the military transformation upturned the fundamental doctrine of federalism envisage by classical federalist scholars particularly the values of devolution and intergovernmental relations.[85]

It is a well-known fact that, given the nature and command structure of the military organization, military rule is opposing to both federalism and democracy.[86] There is, in reality, an enormous weight of intellectual evidence supporting the view that thirty years of military rule consistently altered Federal-State relations in favour of the former to the extent that Nigeria ultimately became more of a unitary state than a federal one. Furthermore, the items under the exclusive list are too spurious (68 items). This makes the component units to be seriously reliant on the centre for numerous things, particularly funding and resource control. The centre has shoulder a lot of responsibilities,

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83 A. O. Bassey 'A Theoretical prognosis and analysis it Federal Balance in Nigeria 1954-2013' (2012)1 (1) Retain of Arts and Humanities, 51-65.

84 J. O. Nkwede, K. O. Dauda and, O. A. Orija, 'Federalism and Contending Issues in Contemporary Nigeria: Mapping Alternative Perspectives for a Neo-Federalist Paradigm' (2018) 14(10) Asian Social Science 11-119.

84 A. Alao, 'Military Rule and National Integration' in Toyin Falola (ed) *Modem Nigeria: A Tribute to G.O Olusanya* (Lagos, Modelor 1990) 120.

85 R. J. K. Chapman, 'Structure, Process and the Federal factor: Complexity and Enlargement in Federations' in Burgess, M. and Gagnon, A. (eds) *Comparative Federalism and Federation* (New York, Harvester Wheat sheaf 1993) 69-93.

86 Panter-Brick and Dawson 'Nigerian Politics and Military Rule' in S.K Panter-Brick (ed) *Nigerian Politics and Military Rule: Prelude to Civil War.* (London, Athlone 1970) 131.

while the federating units have too slight responsibilities to do. From 1950 the North has continued to have parity with the South (now South East, South-South and South-West). There are currently six geo-political zones, three go to the north alone, and out of the current thirty-six states, nineteen go to the North. This gives the North grip over the federation, and makes it difficult for the other part of the nation to achieve anything once the north is not in support.

Minorities, Citizenship and Indigene-ship Issue

Any federation which does not sufficiently protect its minority groups, but gives leverages to the majority group, is bound to have constant communal hostility and instability. In Nigeria, the minority question has been made more difficult because of the nature and content of diversity. While it is very easy to identify Hausa-Fulani, Yoruba and Igbo as the three major ethnic groups at the national level, the majority-minority divide is also visible at State and local levels. This is the manifestation of the problem of accommodating over two hundred and fifty (250) ethnic groups in the few sub-national units. Over the years, states and local governments were created as a means of minimizing the majority–minority conflicts. But the various exercises have further created *new* majorities and new minorities at the sub-national levels[87]

In the same way, the issue of citizenship and indigene is linked to the issue of majority-minority divide. Reconciling the diverse ethnic groups, which make up Nigeria, is no doubt extraordinary task. The Nigerian Constitutions from 1960 to 1999 recognized the citizenship of the every Nigerian. All Nigerians evidently have the right to settle down anywhere in the nation to pursue their lawful businesses and are expected to have equal rights everywhere in practice. But this is not true. In reality there is a contradiction. The ethnic consciousness, indigineship-citizenship rights are not still well-defined and accepted. Many states and communities recognize their indigenes and can easily isolate settlers, and treat them so, no matter how long they have lived in the area[88]

Moreover, this dichotomy is legally recognized by Nigeria's federal character policy, which recommended the equitable sharing of public opportunities and resources among persons from, or indigenes of, all the states of the federation.[89]

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87 J. I. Elaigwu, 'Nigeria: The current state of the federation: some basic challenges' (2007) Paper presented at International Conference on Federalism in Honour of Professor Ronald Watts, Organized by the Institute of Intergovernmental Relations, Queens University, Kingston, Canada, October 18-21, 2007.

88 *Ibid.*

89 *s 14 & 147 CFRN, 1999 (as amended).*

But the notion of indigene-ship is constitutionally defined tautologically in terms of ancestry rather than residency. Therefore, under section 318 of the 1999 constitution as amended, a Nigerian can claim to "belong to" a constituent state of the federation if either of his or her "parents or ... grand-parents was a member of a community indigenous to that state". This provision has encouraged indigenes to exclude non-indigenes (Nigerians resident in states in which they have no direct genealogical communal root) from valued opportunities (public employment, political appointments, educational admissions, lands and related resources) that are controlled by, or channelled through, the states.

Mono-cultural Economy

The nature of Federalism that the Nigerian government practices which embodied presidential system of government are capital-intensive administrative system that requires a viable, diversified, progressive and strong economy. An economy that can sustain the Nigerian state is the type whose economy is highly diversified and anchored by a larger number of local investors that spread outside the Nigerian market, especially a hold in Africa. Currently, the Nigerian economy has been dominated by the revenues accrued to her through exploration of crude oil and Nigerian state and her institutions have been controlled by the international laws of demand and supply due to unstable nature of the crude products.[90] This invisible control has affected the federalist option and other political ideas that the country practices. It is on these notions that scholars have argued that a multidimensional economy that produced from more than one sectors and also make provision for the development of her economy within region or continent serves as a mechanism for enhancing institutions in a country [91]

Conflicts over Revenue Allocation Formula and Resource Control

Crisis on resource control and sharing formula are another factors affecting the effective working of federalism in Nigeria.[92] The issue of revenue allocation is

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90 O. Awofeso and N. G. Obah-Akpowoghaha, 'The challenge of federalism and its implications for the Nigerian State' Op. Cit. 8.

91 R. J. K. Chapman, 'Structure, Process and the Federal factor: Complexity and Enlargement in Federations' in Burgess, M. and Gagnon, A. (eds) *Comparative Federalism and Federation* (New York, Harvester Wheat sheaf 1993) 69-93.

92 *J. O. Nkwede, K. O. Dauda and, O. A. Orija, 'Federalism and Contending Issues in Contemporary Nigeria: Mapping Alternative Perspectives for a Neo-Federalist Paradigm' Op. Cit. 11-119.*

one of the most fundamental challenges facing Nigerian federalism. The desire for an acceptable formula for revenue sharing has been the occupation of successive governments in Nigeria, which have established various revenue allocation commissions and made other laws/decrees. For instance, Phillipson Commission (1946) suggested the use of derivation and even development as criteria for distribution of revenue, Hicks Phillipson Commission (1951) suggested derivation, independent revenue or fiscal autonomy, need and national interest, Chicks Commission (1953) suggested derivation, Raisman Commission (1957) suggested need, balanced development and minimum responsibility. Percentage division: 40% to the North, 31% to the East, 24% to the West and 5% to Southern Cameroons, Binn Commission (1964) rejected the principles of need and derivation and suggested regional financial comparability. Percentage division: 42% to theNorth, 30% to the East, 20% to the West and 8% to the Mid-West, Dina Commission (1969) suggested national minimum standards, balanced development in the distribution of the States' Joint Account, and basic need, Aboyade Technical Committee (1977) suggested national minimum standard for national integration (22%), equality of access to development opportunities (25%), absorptive capacity (20%), fiscal efficiency (15%) and independent revenue effort (18%). Other criteria: 57% to Federal Government, 30% to state governments, 10% to local governments and 3% to a special fund, Okigbo Presidential Commission (1980) recommended Percentages on principles: population (40%). equality (40%), social development (15%) and internal revenue effort (5%). Percentages for governments: Federal (53%), States (30%), Local Governments (10%), special fund (7%), Danjuma Commission (1988) suggested Percentages: Federal (50%), States (30%), Local Governments (15%), special fund (5%), Other laws and decrees on revenue allocation: Decree 15 of 1967; Decree 13 of 1970; Decree9 of 1971; Decree 6 of 1975; Decree 7 of 1975; Allocation of Revenue (Federation Account) Act, 1981.

Under the present revenue sharing arrangement, states and local governments expend about half of total government revenues, almost equal to that of the federal government. The federal government is allocated 52.68% of Federation Account revenues (including 4.8% of the Account originally earmarked for "special projects" like the development of the FCT Abuja, development of natural resources, and the amelioration of national ecological emergencies), while the states and the local governments get 26.72% and 20.60%, respectively, bringing the total share of sub-national governments' revenues from the Federation Account to 47.32% (Babalola, 2008; The Punch, Feb., 2012:7; Tribune. Jan., 27th, 2013). There is also a constitutional provision for the allocation of 13% as derivation fund to the oil-producing states. The various Commissions, laws and decrees on revenue allocation had arisen because of the persistent disagreement

of sections of the nation with the way the state resources were shared. As Suberu observed, "the proportion of oil revenues allocated on a derivation basis declined from 50% of mining rents and loyalties in 1969, through 2% of the Federation Account in 1981, to only 1% of mineral revenues in the account during the period from 1989 to 1999", many in the Niger Delta consider this concession far too small and agitations for a greater share from the oil wealth or outright control of the oil resources have dovetailed into youth militancy and also criminality such as[93] oil bunkering, and kidnapping of oil and even non-oil workers. This has not only endangered the peace of the region but also caused disruption in oil supply.

Externalisation of agitations by the oil minorities soon surfaced largely as a result of rising centralization of the possession and control of oil and the politicization of the revenue distribution system by the Federal government to the detriment of the oil producing minority states. In blatant breach of the doctrine of fiscal federalism, Decree 51 of 1969 gave the Federal government total ownership of all petroleum resources in Nigeria. Similarly, the agitations have become increasingly aggressive and radical, including calls for self-determination and outright secession, all of which have had negative socio-political and economic effects on the country's nation-building process. The violent confrontations constitute a serious threat to personal freedom and the security of lives and property, by extension the quest for entrenchment of federalism. Escalating violence and attacks by ethnic militias, Boko-haram and other faceless groups in the ongoing political dispensation constitute serious threats to the country's federalist option, democracy, security and nation building.[94] No doubt resource control has remained the most contentious issue among the three tiers of government. Nigeria operates a system in which the federal government harnesses the natural resources and shares revenue with the states and local governments, which is a departure from an ideal federal system, in which the regions or states as the federating units control resources located in their territories.[95]

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93 R. Suberu, 'The Nigerian federal system: Performance, problems and prospects' Op. Cit 459-477.

94 R. 1. Gofwen, *Religious Conflicts and Nation Building in Northern Nigeria: The Threes of Two Decades* (Kaduna, Nigeria: Human Rights Monitor 2004),

95 J. O. Nkwede, K. O. Dauda and, O. A. Orija, *'Federalism and Contending Issues in Contemporary Nigeria: Mapping Alternative Perspectives for a Neo-Federalist Paradigm'* Op. Cit. 11-119.

Pressure of Prevailing Elites

The pressure of prevailing elites on Nigerian administration and politics is indisputable. According to Dauda[96] elites are those who wield political, social, economic and ethno-religious powers or other influences in a state. Those are who describes as "club of capture" by Ubani[97]. He subsequently categorises this club into three, that is: modernist wannabes (those who the value system sabotaged their desired), narcissistic influencers (those who are consumed by their self-love, are contented with whoever is in power so far they can appoint the oil minister and others), and entitlement minded ones (those who believe that Nigeria is their property and are entitled to the sharing of its resources). He further credited Nigeria's sufferings, underdevelopment and institutional failures to this set of people.

Corruption in Nigeria and bad governance

The most compounding misery befalling the Nigerian nation since independence remains that of corrupt leadership and bad governance. Both remain the burden of development and governance crisis in Nigeria.[98] The prevalence of corruption in a nation is as a result of the lack of political will on the part of the political leadership and the inability of the state to maintain law and order. The huge political corruption that takes place at federal and particularly state and local levels, producing a syndrome of decentralised corruption, which is significantly generated and reinforced by the federal revenue distribution system.[99] Thus, business corruption is a fall out of the failure to tackle political corruption, which casts doubts upon the moral uprightness of the state as a whole and on the political will of the leadership to manage the affairs of the nation. It follows simple logic that where there is absence of political corruption is where the state operates under a high ethical order and upholds, protects and enforces the rule of law on itself and on its citizens.[100] Under the rule of law and justice, the state

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[96] Dauda, K. O., 'Whistleblowing as anti-corruption strategy: Problems and prospects in Nigeria' (2017) 1(1) Lapai International Journal of Public Administration 389-404

[97] Toluwani, E., 'Less than 60 people decide Nigeria's fortune – Ubani' *Punch Newspaper* (Nigeria 11August 2017) <http://punching.com/less-than-60-people-decide-nigerias-fortune-ubani/> accessed on 23 August 2006

[98] J. O Nkwede, K. O. Dauda & O. A Onja, 'Federalism and Contending Issues in Contemporary Nigeria: Mapping Alternative Perspectives for a New Federalist Paradigm' Op. Cit. 11-119.

[99] R. Suberu, 'The Nigerian federal system: Performance, problems and prospects' Op. Cit. 459-477.

[100] C. C. Aniekwe and I. Kushie, 'Electoral Violence Situational Analysis: Identifying Hot Spots in the 2011 General Elections in Nigeria' (2011) National Association for Peaceful Elections in Nigeria(NAPEN)

machinery works for the good of all and there will be no stealing of public funds, inflation of contracts, forgeries, and mismanagement of money in banks, industries and government bureaucracies. A government is elected to solve problems and improve the lives of its people, hence this seems inapplicable to Nigerian leaders.[101] Various writers have emphasized on how Nigeria has been unlucky in having good, diligent and sincere leaders. [102]The resultant effects are failure to deliver good governance and securing welfare of the people. Hence, lack of effective and visionary leadership in Nigeria is the greatest cause of lack of direction, unity and cohesion required for democratic sustenance, good governance and national development.[103]

In addition to the above assertion, electoral corruption has promoted political over-centralisation, and retarded decentralisation, in the Nigerian federation. A promise of Nigeria's three-tier federalism is that the existence of multiple state governments and local administrations, with significant policy autonomy and access to resources, can disperse the stakes of political competition, making struggles for control over the centre less intense and helping political pluralism and policy innovations to gain footholds in different states and localities governed by various parties. But the malign hand of electoral manipulation has suppressed this federalist genius, producing an artificial condition of single-party domination of central, state and local governments.[104] Consequently, in the First, Second and current Fourth Republics, the ruling parties at the national level used their control of key electoral and security institutions to get out opposition parties at the regional or state level, thereby foisting an oppressive, ethnically provocative, single-party hegemony on the entire federation. Regional and state governments have similarly used their control of the institutions for local electoral administration to undermine opposition control, and therefore political devolution and diversity, at the local level.[105]

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101 <http://www.ifes.org/Content/Projects/AppliedResearchCenter/Cross-CuttinWElection-Violence-Education-and Resolution.aspx> accessed 12 August 2020.

102 Tribune (Nigeria 18 July 2016) < http://www.tribuneonlineng.com/nigerian-economy-current-issues-strategic-options/> accessed 12 August 2020.

103 M. A. Lawal and K. O. Dauda, 'Islamic leadership paradigms: Universal remedy to bad leadership and sustainable democratic dispensation in Nigeria' (2016) 2 (2) ICSHER Journal 39-53.

104 A. B. Akinola, K. S. Adebisi & O.O. Oyewo, 'Leadership and democratic governance in Nigeria' (2015) 5(6) Journal of Developing Country Studies 83-89.

105 *R. Suberu, 'The Nigerian federal system: Performance, problems and prospects' Op. Cit. 459-477.*

R. Suberu, 'The Nigerian federal system: Performance, problems and prospects' Op. Cit. 459-477.

Intergovernmental Relations and Delivery of Services

Despite the aforementioned, one of the greatest challenges of Nigerian federalism is the problem of asymmetric power relationships between and among the disparate component units of the federation.[106] In all federations, the need for intergovernmental relations has become even more pressing, as many issues of governance transcend a single tier of government. Unfortunately in the dynamics of Nigeria's federation, intergovernmental relations have been low.[107] For instance, the federation is rife with mutual accusations and counter-accusations of domination and marginalisation. The South is aggrieved by what it calls political domination by the North. Osuntokun[108] buttresses the position that Nigeria's federation is tilted in favour of the North.

The big question is how to establish intergovernmental relations to cut out duplications and wastage, and to ensure greater efficiency in the delivery of services. The signals from the Yar'Adua administrative have shown that there is a new determination to establish new framework for intergovernmental relations, especially between federal and state governments. The National Economic Council has provided a forum for federal and state leaders to examine the framework for new intergovernmental relations in the delivery of services.

Poor Implementation of Federal Character Principle

The Federal Character Commission (The Commission) was established with a mandate to addressing the anomalies and inequitable marginalization, via constitutional arrangement for a formula, subject to the approval of the National Assembly, for the distribution of all cadres of post in the public service, armed forces, police force and other government security agencies. For illustration, section 14 (3) of the constitution[109] provides that the appointment of Ministers, shall reflect the Federal Character of Nigeria arrangement. In addition, the President shall appoint at least one Minister from each state who shall be an indigene of such state and makes appointment to the offices of the Secretary to

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106 O. B. Orluwene, 'The Challenges and Pathologies of Nigerian Federalism' Op. Cit. *72-87.*

107 J. I. Elaigwu, 'Nigeria: The current state of the federation: some basic challenges' (2007) Paper presented at International Conference on Federalism in Honour of Professor Ronald Watts, Organized by the Institute of Intergovernmental Relations, Queens University, Kingston, Canada, October 18-21, 2007.

108 J. Osuntokun, 'The historical background of Nigerian federalism' in Akinyemi, A. B. et al (eds) *Readings on federalism* (Lagos: NIIA 1979) 57.

109 *CFRN 1999 (as amended).*

the Government, Head of Service, Ambassadors, Permanent Secretaries in line with federal character arrangement or formula.[110]

However, it is worrisome that the Commission has not been able to fulfil its mandates as there is prevailing inequality in the sharing of power and resources among the states such as selection of Ministerial appointments, lack of meritocracy selection of standard and professionalism in public and civil services of the federation, poor regional selection of the arm with it leads to the production of sub grade soldiers.[111]

From the abovementioned, the fundamental issues analysed in this section depicts that the trend of Nigeria federal system is tilting towards destruction. With these worrying trends, Nigeria may stand the risk of democratic recession, another civil war and probably division. It may be difficult for a nation such as Nigeria to toe the path of integration or stability.

Insecurity and political instability

Without missing word, insecurity and political instability have been the permanent features of Nigeria body-politic. The situation of insecurity in Nigeria right from the onset of this democratic dispensation has become an unending debate among academia and policy cycle in the country, a debate that has posed a series of questions on the federal might, especially the inability of the federal government to put an end to the different social menace in the country.[112] Nigeria has been crisis-ridden since the attainment of political independence in 1960. From the first military coup in 1966 till their last interregnum in 1998, the Civil War of 1967-1970, various electoral violence, ethnic agitations for states creation and against marginalization, and ethno-religious crises. In the recent times, for instance, the waning insurgent attacks by boko haram sect in the North-east, Fulani-herdsmen conflicts in the North-central, bombing and militancy attacks in the South-south, kidnappings in the South-east, and ritual killings, cultism and recently kidnapping in the South-western region portend danger to the process of nation-building, political stability and national

110 *See s 147 (3), and s 171 (5) CFRN 1999 (as amended).respectively.*

111 Iyabode Ogunniran, 'In Search of a Federalism: the Federal Character Principle in the Nigeria Constitution' (2018). <https://blog-iacl-aidc.org/blog/2018/9/10/in-search-of-a-viable-federalism-the-federal-character-principle-in-the-nigerian-constitutio> accessed 5 November 2020.

112 O. Awofeso and N. G. Obah-Akpowoghaha, 'The challenge of federalism and its implications for the Nigerian State' Op. Cit.

cohesion.[113] Arising from these variables and other studies conducted by Burgess[114] in Africa on federalism, he lamented that 'Federalism in Africa does not have a positive image. Its record of success is patchy while its failures seem manifest'

Therefore, it presupposes that political leaders would be responsible enough to be crisis dampers rather crisis escalators. It also means that government should effectively maintain law and order to encourage the 'rule of law' and prevent the aggrieved from taking laws into his/her hand. Unfortunately, the Nigeria Police Force seems overwhelmed, while the constant use of the military for police duties is dangerous for everyone.

The Nigeria Police and other security agencies have earned themselves bad image when it comes to the discharge of their constitutional responsibilities. The level of insecurity and the violation of human rights in the country speak volumes of this image. The failure of the police to perform up to expectation pushed some state governments to establish vigilante groups (amatekun). Besides, the way the police is used/misused have prompted many to recommend the establishment of State Police.

CONCLUSION

It is absolutely no doubt that the adoption of Nigerian federalism which was as a result of the veracities of the Nigeria's history coupled with professed economic advantage accruable from federalism as well as geographical and political factors, and British imposition meant to serve the political interest of the British alone. Moreover, the present pattern of federal system in Nigeria has been contained from achieving the ideal federalism due to certain contemporary issues and challenges such as Inter-ethnic rivalry and sectional domination of powers, Military invasion and over-centralisation of power at centre, Conflicts over Revenue Allocation Formula and resource control, Corruption in Nigeria and bad governance, Insecurity and political instability, and Poor Implementation of Federal Character Principle. These issues and challenges require vital reactions and proper constitutional amendments. In view of these, this paper concluded that a true and ideal federalism is yet to be realistic in Nigeria as the patriotic strength of Nigerians are weak to practicing the federalism as enshrined in the

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113 *J. O Nkwede, K. O. Dauda & O. A Orija, 'Federalism and Contending Issues in Contemporary Nigeria: Mapping Alternative Perspectives for a Neo-Federalist Paradigm' Op. Cit. 11-119.*

114 M. Burgess, 'Federalism and Federation: A Reappraisal' Op. Cit. 3-14.

constitution. To ameliorate the issues and challenges posed to the present Nigerian federalism, it is recommended that:

a. As the 1999 Constitution considerable grants autonomy to sub-national governments, State and local governments can design and implement their economic development policies using different budget regimes and expenditure patterns independent of the federal government. With this legislation governments at federal, state, and local levels must summon the courage and will to reverse their current complacent nature for the economic prosperity of the people. The trend in federal states is generally towards more cooperation among all tiers of government in economic planning and development. The federal government should, by virtue of its role in national development, encourage competition among sub-national units using incentives.

b. All stakeholders should concentrate more on how to manage the present Nigeria's federal structures towards ensuring national unity and integration, stability and development, rather than promoting superfluous division and disintegration.

c. Centralisation of Nigerian federation should be addressed via constitutional amendment. This problem should be addressed in the constitution review. Our federal system has come to be centralized and homogenized to an extent undesirable in a federation.

d. Nigeria needs to build a stable democratic polity. While it is true that the post-military period has been too short for the establishment of a stable democracy, it is necessary that Nigerian politicians should demonstrate more commitment to democracy as an end and should imbibe essential values of democracy.

e. There should be greater intergovernmental relations between state and local governments for effective service delivery. The challenge is to ensure a more efficient delivery of services for poverty alleviation.

f. Political leaders must address the issue of monocultural economy of the nation because it relate to the sustenance of Nigeria's democracy, the federation and the nation. Nigeria needs to diversify her monocultural economy. Her deregulation and privatization policies must be pursued with all sense of patriotism and sincerity, transparency and accountability.

g. The perseverance of shameless misuse of the Nigeria Police by the presidency has however made this paper to strongly recommend that the police should be decentralized such that it can operate efficiently in each State. The commissioner of police in each state should be responsible to the Governor of the state with regard to the security of life and the maintenance of law and order. Each state should be free to establish State

Police, given constitutionally delineated guidelines. It also means that the Police should become a concurrent matter.

h. Electoral and anti-corruption reforms will be required to consolidate Nigeria's real successes in mitigating potentially disintegrative ethno-political conflicts and to assuage current agitations for the wholesale restructuring or dismantling of the federal system.

i. Political leaders should be responsible enough to be crisis dampers rather crisis escalators. This means that government should effectively maintain law and order to encourage the 'rule of law' and prevent the aggrieved from taking laws into his/her hand. Thus, the attitudes of both the leaders and the led towards governance needs to change.

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