

## FISCAL FEDERALISM AND RESOURCE CONTROL IN NIGERIA

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**Abstract** – Fiscal federalism appears to have generated more political conflicts than any other question in the recent political economy of Nigeria. The deep sense of injustice evoked by the centralization of resources in the federal centre, the perception that political power has been wielded by ethnic majorities at the expense of the minorities, has heightened the crisis of resource control in the polity. This paper using secondary source of data discusses fiscal federalism and resources control in Nigeria. At the heart of federalism is the issue of power distribution. Fiscal responsibility is the oil that grinds the interaction among the levels of government. The paper examine fiscal federalism and the challenges of fiscal federalism in Nigeria, the study found out that, the origin and dynamics of Nigerian federalism have been largely dictated by the peculiarity of the Nigerian environment, or to be more specific, the sociological qualities of the Nigerian social formation which provided in the federalist ideology a convergence of interests between the class and ethnic interests of the emergent ruling elite in the dying period of colonial rule. On the quest resource control the study found out that, the biggest challenge and perhaps, obstacle to the quest for resource control is the implication for fiscal inequalities among the constituent elements of the Nigerian federation.

**Keywords:** Fiscal Federalism, Resource Allocation, Fiscal Responsibility, Centralization and Political Economy.

### Introduction

The quest by the ethnic minorities in Nigeria especially by oil rich region for control resources poses a new challenge in the discourse on fiscal federalism in Nigeria. However, it is to a large extent, an extension of the problem of distribution of power and resources in a federal system. Unlike the traditional concerns over criteria for both vertical and horizontal revenue sharing, and the latter in particular, advocates of resource control from the Niger Delta and the call by civil society and other regions of the country are demanding absolute regulation of the use of resources found in their states. While acknowledging that crude petroleum currently provides the linchpin of the Nigerian economy, and the externalities arising from its exploration and production appears to be the immediate trigger of the demand, the quest for resource control extends to other solid minerals found across the length and breadth of the Nigerian federation. Consequently, the demand for resource control has included the demand for the repeal of existing laws and legislations that have made possible exercise of federal taxing powers and control over mineral deposits.

Fiscal federalism appears to have generated more political conflicts than any other question in the recent political economy of Nigeria. However, the crisis of leadership has eaten deep into the fabrics of Nigeria's federalism causing animosity between and among the diverse ethnic groups in Nigeria (Usman, Godwoli & Ifatimehin, 2014). The deep sense of injustice evoked by the centralization of resources in the federal centre, the perception that political power has been wielded by ethnic majorities at the expense of the minorities, the immediacy of ecological devastation faced by oil bearing communities, and the realities of grinding poverty, unemployment, and other forms of deprivations, all have contributed to the transformation of ethnic minority identity in the Niger Delta and how this is linked with the wider issues of governance in Nigeria. Although the Niger Delta people have not demanded for the dismemberment of the Nigerian state in keeping with the tradition of support for greater unity among the ethnic minorities, the demand for resource control has far-reaching consequences for the future of the Nigerian federation, democracy and development.

The purpose of this short essay is to examine the implication of the demand for resource control and the challenge of restructuring the Nigerian federal system. It examines the issue of resource control against the background of general agreement that Nigeria's current federal arrangement is structurally defective, and, therefore, requires adjustment. It is also against the background that any proposal for amendment, to be meaningful, must put on the table the urgent need to transfer political power and resources to lower levels of government, through a process of dialogue and consensus building such that minimum requirements for sustaining unity and integration are met.

### Federalism and the Challenge of Nigeria's Fiscal Federalism

Our age has been correctly described as the age of the federalist revolution. This is in recognition of the popularity enjoyed by the federal idea. According to Watts (1999), nearly 40% of the world's population now lives within polities that are formally federal, while another third lives in polities that apply federal principles in some way. The revival of the federal idea and its application in so many countries attest to the resilience of federalism. Despite the increasing appeal of federalism as a

mechanism of coping with difference, and the adoption of federal solutions to the management of diversity, the 1999 Constitution, which provides the framework for the present democratic experiment is anything but federal. To begin with, it reflects the centralizing logic which started with the implosion of the military into the political arena with a legacy of centralizing power and resources in the national government.

What therefore is federalism? Federalism is a system of government or power arrangement crafted deliberately to deal with a sociologically complex polity as presented by Nigeria's multi-ethnic, multi-linguistic and multi-religious composition. Thus, as Oyovbaire (1979:9) has observed, "the existence of federalism presupposes the existence of certain compelling and propellant forces which theoretically at least, are absent from its opposite phenomenon, called unitary system". The idea of federalism seeks to cope with the central problem of territorial distribution of power in such a manner that guarantees unity in diversity. A central feature of a federation is the formal division of power between levels of government, an issue that pre-occupies the attention of Wheare (1956), whose classical formulation on the federal principle is considered a major landmark. This formulation has been subjected to a lot of criticisms. Among others, it has been suggested that it fails to distinguish between an idea and its institutional manifestations, setting up the United States experience as the ideal-type federal system (Jinadu, 1979: 15). Despite such objections, it remains central to the discourse on federalism that it is the legal-constitutional arrangements that provide indications to the legal and political competence of levels of government. Consequently, at the heart of a federal polity is the issue of inter-governmental relations, the constitutionally assigned responsibilities to the different levels of government that, at once, meets the requirement of relative autonomy for each level of government and non-centralization of power in the national government. While, as Wheare also cautions, the ultimate test is, how the federal system operates, the legal-constitutional arrangement, is a very important dimension.

The important contribution of Livingston (1956), draws attention to the fact that the adoption of a federal constitutional framework is premised on what he describes as the sociological characteristics. These sociological qualities which necessitate the adoption of a federal solution may, in concrete terms, be expressed in the form of ethno-regional diversity, or other expressions of diversity which tend, more often than not, to be territorially distributed. In that context, federalism becomes a device for articulating and protecting the federal qualities of the society in question.

A related fact to this is the conceptualization of a federal polity in a dynamic sense as a process, rather than a particular ideal state. This is the perspective of federalism that has been emphasized by writers like Friedrich (1964), tends to build on the sociological factors which, in the first place, necessitates the adoption of federalism. The strength of the process perspective, as Jinaidu (1979), has pointed out lies in drawing our attention to the changing and evolving nature of a federation, a point that has been well illustrated by the experience of the United States of America where the federal experiment has evolved through critical phases such as centralizing, competitive and co-operative federalism. What this really means is that all countries are in the process of federalizing and the outcome cannot be determined a priori.

In addition, federalism shares some essential attributes of democracy in the sense that the underlying principle is non-centralization of power as a means of preserving plurality or the autonomy of the constituent elements. For this reason, some writers often over stress the logic to suggest that federalism is incompatible with non-democratic or authoritarian political system. The point to stress, therefore, is that federalism guarantees the formal dispersal of power between different centres of power in such a way as to reduce the totalizing claims of the central authority.

One important issue to pose following this examination of a number of key issues in the theory and principles of federalism relates to the very idea of "true federalism" or differently put, whether one can talk of an ideal federal system. A cursory examination of the federal system across time and space shows that federalism can be expressed in different shapes and sizes such that one cannot place a barometer on a certain degree of autonomy of the constituent units or of centralization, to determine the degree of "federalness". In other words, there is no such a thing as "ideal federalism". What is required is the presence of a number of salient elements and features without which it would be questionable to describe a political system as federal. These include, among others, the division of powers among levels of government; a written constitution showing this division; coordinate supremacy of the two levels of government with regard to their respective functions; an amendment process which allows for the revision of the federal compact; a supreme court that exercises powers of judicial review; and some measure of financial self-sufficiency for the constituent units. Nevertheless, the idea of federalism leaves sufficient room for adjustments when they become necessary. Some adjustments could be in response to changing political and economic conditions, or change in the political perception of the dominant elites and their real interests.

The origin and dynamics of Nigerian federalism have been largely dictated by the peculiarity of the Nigerian environment, or to be more specific, the sociological qualities of the Nigerian social formation which provided in the federalist ideology a convergence of interests between the class and ethnic interests of the emergent ruling elite in the dying period of colonial rule. Thus, despite the tendency to blame the machinations of colonial imperialism for foisting a federal system on Nigeria in an incremental fashion, beginning with the Richards Constitution of 1946, and finding a fuller expression in the Lyttleton Constitution of 1954, the fact remained that the regional framework of politics and of inter-elite competition for power nurtured by the colonial authorities fitted well into the power calculus of the emergent petty bourgeoisie.

In recognition of the dynamic character of federalism, dictated by changing character and balance of forces that dictated the adoption of a federal constitution, it is easy to fathom the fundamental changes that have taken place between the period of the end of the first Republic and the contemporary epoch. The construction of the federal state in the terminal phase of colonialism was done in an atmosphere in which all the competing elites shared the consensus that preservation of ethnic and regional autonomy was a pre-condition for the survival of the national project. Prominent nationalists such as the late Dr. Nnamdi Azikiwe (1964), and Chief Obafemi Awolowo (1977), may have failed in their demand for a more balanced federal arrangement in which ethnic groups would be the federating units, but their logic for a loose and decentralized federal arrangement prevailed at the end of the day.

However, between the demise of the first post-colonial political process in 1966 and the return to civilian democracy in May 1999, the nature and character of Nigerian federation had changed. A number of factors accounted for this, chief among which are the implosion of the military into the political arena, and the need to respond to the threat posed to the collective interests of Nigeria's political and economic elites by the spectre of disintegration of the country by the civil war. Several policies and actions pursued by the Gowon regime, and, indeed, successive military regimes sought to respond to the latter. Among others, the creation of states and the alteration of fiscal arrangements stand out as those that shaped the character of federalism that has survived into the post-1999 political order and sanctioned by the 1999 Constitution.

The alteration in Nigeria's fiscal federalism and revenue allocation flows logically from the factors identified above. The post-Civil War era was marked by extreme centralization of resources to the point that constituent units have become mere fiscal appendages of the centre. The first casualty in this regard has to do with the principle of derivation in the context of horizontal allocation by successive military administrations since the Civil War. Not surprisingly, one of the most decisive struggles being waged by the oil-bearing communities of the Niger Delta with far-reaching implications for Nigerian federalism is over resource control.

Derivation principle of revenue sharing between existing tiers of government was introduced by the Richards Constitution of 1946 which was the first that gave concrete expression to regionalism. The attempt by the Phillipson Commission of 1950 to introduce criteria such as need and national interest was short-lived as the Louis Chiks Commission of 1954 which came out the same year as the Oliver Lyttleton's federal constitution that restored the principle of derivation. The application of the derivation principle, as it turned out, led to fiscal imbalance and inequality among the federating units. While the North and Western regions were favoured because of the relative boom in the export prices of Cocoa, Cotton, and Groundnut, the Eastern region was considerably disadvantaged. Despite the problem generated, it conduced to the principle and practice of federalism.

The reification of national unity that followed the Civil War ultimately provided rationalization for the assertion of the powers of the national government over fiscal and revenue matters. The Gowon regime, as it turned out, made a detour by implementing most of the recommendations in the report of the Dina Committee on revenue allocation which was earlier rejected. Part of the report reads:

We believe that the fiscal arrangements in this country should reflect the new spirit of unity to which the country is dedicated.... It is in the spirit of this new found unity that we have viewed the resources of this country as the common funds of the country to be used for executing the kinds of programme which can maintain this unity" (Quoted in Oyovbaire, 1980: 227).

It was on this ground that the Federal Government launched a series of onslaught on own revenues for the states which included royalties, rents and other revenues from on shore production. In fact, as a result of the Dina Committee Report, excise and import duties hitherto paid to the regions/states were to be shared between the federal government and the Distributable Pools Account (DPA). Another major assault on states revenue base was the Nigeria Produce Marketing Board Decree of 1968, which brought the Nigerian Produce Marketing Company under the central government and its source of loans which used to be commercial banks was replaced by the Central Bank. Furthermore, it no longer made loans available to the states.

As a result, the new allocation formula contained in Decree No. 13 of 1970 radically departed from what obtained in the pre-War era. Not only was the supremacy of the federal centre over the states with regards to vertical allocation had been established, the new principles articulated for horizontal revenue sharing completely removed derivation in favour of criteria such as needs, equality among the states and balanced development. It was this fiscal arrangement that was handed over to the civilian administration in the second Republic.

The attempt by the civilian regime to deal with this problem led to the setting up of the Okigbo Presidential Commission on Revenue Allocation in 1980. The Okigbo report based on a synthesis of various demands and representations during the nation-wide tour of the commission did not depart from the spirit of post 1970 nationalism. Thus, in respect of allocating funds among the three tiers of government, the Commission made the following proposal: Federal Government (53%), State(30%), and Local Governments (10%). It further proposed 7% as Special Fund, 2 % of which was meant to address the

special problems of oil producing communities realizing the externalities that result from oil exploration and extraction.

The commission justified the proposal by arguing that it considered the weight of constitutional responsibilities of each level of government, and sought to avoid what it called “essentially a political judgment” and technical exercise which was “clearly beyond our reach for lack of data” by accepting levels of expenditure by each tier on the functions specified for it in the constitution. On the other important area of the commission’s assignment, regarding the horizontal allocation of revenues among the states from 30 per cent of the Federation Account, it recommends a sharing formula based on the following criteria: Equality of states (40 %), Population (40 %), Social development factor as represented by primary school enrolment (15 %), and internal revenue effort (15 %).

Until the military handed over power to the elected administration in May, 1999, the only remarkable change was the restoration of the principle of derivation under the Abacha regime. Faced with the recurrent violence and persistent political agitation in the Niger Delta, and the transformation of ethnic minority identity which came to be mobilized against the central government, the regime granted a minimum of 13% to be paid to the oil producing states. This commitment was transferred to the new government which took over in 1999. The modest advance made in respect of derivation, notwithstanding, the demand for resource control has become a major issue in the bargain and negotiation between the oil producing states and the national government.

Against the foregoing background, it becomes easy to understand the distortions that have been brought to bear on the Nigerian federal system in some key areas. First, is the extreme centralization of power and the erosion of the autonomy of the component units. The consequences are diverse, including the tendency to encourage desperate struggle to capture power at the national level by the various ethnic fractions of the elite as a means of controlling the state and its resource allocating powers. The support in some quarters, therefore, for a return to regional arrangement, based on a modification of the existing zoning system derives largely from the conviction that the present state structure does not conduce to true federalism because each component state is too weak politically and financially to withstand the overbearing power of the centre.

Consequently, there is a popular demand for the reconfiguration of the Nigerian federal state in a manner that substantially ensures decentralization of power and resources to the sub-national governments, especially the states. For example, there is a demand for decentralization of power which should reduce the very long and inexhaustible exclusive legislative items. The exclusive legislative lists, numbering about 70, go beyond the traditional spheres of federal concerns such as foreign policy, currency and monetary matters, customs and excise, to include items like education, agriculture and commerce which can be competently handled by the states.

### **The Quest for Resource Control**

The demand for resource control by the ethnic minority groups in the Niger Delta derives partly from their own construction of political identity in post-independence Nigeria. However, ethnic minority fears has a fairly long history in Nigeria dating back to the pre-independence period when expression of such fears and the strident demand for political autonomy forced the departing colonial authorities to set up the Willink Commission. The Commission rejected the major demand for creation of new states, and instead, supported entrenchment of fundamental rights and the establishment of special development boards. Since then the ethnic minority questions has assumed some salience in the country.

For the Niger Delta communities their narrative is linked to the patterns of political domination and exclusion in the post-independence era, including the abolishing of derivation principle in revenue allocation, and the repression of the agitation by oil producing communities, have all contributed to the transformation of ethnic minority identity. For many people in the Niger Delta, their misfortune is explained in terms of the conspiracy of the majority ethnic groups who have prospered by controlling state power and the oil wealth. It is therefore significant to note that the response of the Niger Delta people, though includes pan-Niger Delta ethnic organisations like the Chikoko movement and the Union of Niger Delta, has increasingly taken on an ethnic dimension.

After over three decades of military rule and the end of the Civil War, Nigeria and Nigerians are back to the contradictions and distortions generated in the development of the federal arrangement. The wheel, it appears, has turned full circles: from the extreme of a loose federal arrangement with constituent units that were more powerful than the centre to the extreme of an overbearing national government that has centralized economic and political power. The clamour for “true” federalism, or the re-negotiation of the federal pact, or re-federalizing the Nigerian state in a sense, represents attempts to overcome the legacy of the Nigerian Civil War.

It is against this background that the issue of resource control becomes imperative, namely, that a new federal compact in Nigeria must recognize the right of states to control their own resources. It is fruitless given the level of political mobilization around the issue of resource control to wish away the demand hiding under the argument that the federal pact in Nigeria has historically derived from the initiative of the national government from above as opposed a union voluntarily formed by the constituent units. There are obvious advantages and lessons to learn by moving in this direction. To begin with, it would further the cause of federalism by overcoming the culture of overdependence of the constituent units on handouts provided



by the federal centre in the form of statutory transfers. Second, it could encourage a healthy rivalry and competition among the constituent units to develop and mobilize internal resources for development. There are other advantages which include shifting the burden of environmental protection to lower levels of government and the immediate communities. It however, remains contentious as to who should control resources in the context of local contradictions and contentions. For instance, should resources be controlled by the state governments to the exclusion of local governments and communities, or families on whose land the resources have been deposited?

The biggest challenge and perhaps, obstacle to the quest for resource control is the implication for fiscal inequalities among the constituent elements of the Nigerian federation. This concern becomes more critical given the level of fiscal disparities that currently exist between oil-bearing states that enjoy 13% derivation of federally collected revenues and the non-oil producing states. To address this genuine concern some concrete proposals have been suggested. One of such proposals has emerged from the multi-level consultations of the Citizens Forum for Constitutional Reform (CFCR). The position of the Forum is that states control their resources and pay 50% of the proceeds as tax to the federal government. The tax is pooled into an Equalization Fund which is meant to address the problem of inequality among the states.

### Concluding Remarks

Scholars and students of federalism have always recognized the dynamic character of federalism and are reluctant to see it as a fixated form of power arrangement. For them, federalism is essentially a process whose form and content are dictated by the shifting balance of power and resources. Thus, representing a creative attempt to deal with the spatial distribution and management of power in a diverse political context, the pendulum of federal power often moves between the extremes of centralization and decentralization. Older federations like the United States have had to go through recognizable phases in the evolution of the federal polity in keeping with this dynamic element.

From the point of view of Nigeria's political history, the two extremes have been experienced. For instance, constitutional federalism which evolved in different phases from the regionalism of the 1940s to 1954, when the Oliver Lyttleton Constitution ushered in a federal system, and survived into the first Republic, was founded on the autonomy of the region. Despite the criticism of that experience as providing for a weak centre and more powerful subunits, it was closest to the framework capable of providing for group fears and autonomy. The other extreme, which appears to be at the core of the current political crisis, is the extreme centralization of power under successive military rule. The challenge of the moment is how to seek a compromise between the two extremes of decentralization on the one hand, and, on the other, over centralization of power and resources.

Against this background, what amounts to true federalism becomes the most contentious question. Whatever may be our predilections and judgment, the direction to go is a kind of power arrangements that can promote unity in diversity. To do this requires tinkering with the essentially centrist arrangement which is reflected in the 1999 Constitution through a measure of decentralization that increases the powers of the federating units in terms of political and development responsibilities, and providing a guarantee of appropriate fiscal autonomy to carry these responsibilities. This makes the issue of resource control an imperative that needs to be addressed in the context of the search for a more viable federal arrangement in Nigeria. But as we all realize federalism is ultimately about bargain, dialogue, trade-off and compromise, all of which are at the heart of the federal culture and the domain of the power elite.

While a national consensus needs to be built on the question of resource control, there are a number of issues that require urgent and immediate attention in shaping the future of federal polity in Nigeria. These include issues of democratic consolidation, governance, and constitutional reform. With respect to the last for example, there is need to provide and entrench independent commissions around issues of minority rights and how to protect and advance such rights. The most important of these will be the rights of ethnic and religious minorities in whatever context they might exist. It remains a daunting challenge to state actors and the civil society to build a legitimate constitution by taking on board the popular interests and demands of the Nigerian people, because there is a high political value in building ownership of the constitution. Above all, there is a need to consider the reform of the state in the direction of bringing the state back-in to the arena of development.

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