Re-inventing Federalism in Post-Transition Nigeria: Problems and Prospects

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Abstract

This paper grapples with the question of Nigeria's federal practice. It argues
that there is a need to re-examine federalism in the country with a view to
restructuring the system so that it reflects the ethnological and political realities
on the ground. It proposes the de-concentration or decentralisation of the powers
of the central government, which increased astronomically during military rule
to the disadvantage of the component units—the states. In addressing this subject
matter, the paper critically examines the theoretical basis for the notion of
federalism, seeking to determine Nigeria's suitability as a federal state in the
first instance. A historical overview of the origin of Nigeria's federalism—
alongside a discussion of present-day predicaments—is presented in the
preliminary analysis. Subsequently, the persisting problems in Nigeria's
federalism—like the monopoly of state power, revenue allocation, state creation
and federal character—are re-visited with a view to determining the situation in
the post-transition democratic environment. Finally, the paper makes a case for
the constitutional division of the country into geo-political zones, the rotation
of power amongst these zones, and the decentralisation of power away from the
centre to the states and local governments.

Résumé

Cet article aborde la question des pratiques fédérales au Nigeria. Il soutient que
le type de fédéralisme pratiqué dans ce pays doit être revisité, afin de restructurer
le système de sorte qu'il reflète les réalités ethnologiques et politiques sur le
terrain. Ce texte propose une déconcentration ou une décentralisation des
pouvoirs du gouvernement central, qui se sont accrus de manière phénoménale
au cours du règne militaire, à la défaveur de ses composantes que sont les États.
Il procède à une étude critique de la base théorique du fédéralisme, en cherchant

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à déterminer si le Nigeria se prête ou non à ce type d'organisation étatique. Un aperçu historique des origines du fédéralisme nigérian, ainsi qu'une description de la situation réelle sont présentés dans l'analyse préliminaire. Ensuite, les problèmes récurrents liés au fédéralisme nigérian, tels que le monopole du pouvoir étatique, la distribution des revenus, la création et la nature fédérale des États, sont ré-examinés, afin de déterminer la situation qui prévaut dans l'environnement démocratique nigérian post-transition. Pour finir, cette contribution évoque la division constitutionnelle du pays en zones géopolitiques, le caractère rotatif du pouvoir entre ces zones, ainsi que la décentralisation du pouvoir du centre vers les États et les gouvernements locaux.

Introduction

Nigeria, the most populous black nation on earth with a population of about 120 million and over 250 distinct language groups, successfully transited to democratic governance on May 29, 1999. What are the implications of this event for a progressive practice of federalism in the country? To what extent have the ongoing post-transition reforms impacted on federal practice? Indeed, what are the prospects for a more acceptable federal system in Nigeria? These and other related questions revolving around the pertinent features and issues in the practice of federalism in Nigeria are addressed in this essay with a view not only to understanding but also to charting the way forward for the political survival of the country. I regard this not just as an academic exercise but also as a *desideratum* for those who seriously believe that ways ought to be found for organising differing ethnic, political and social interests in deeply divided societies. A federal system of government often arises from the desire of a people to form a union without necessarily losing their identities. Federalism would, therefore, seem to provide an attractive system of government especially in the context of ethnic pluralism found in many African states.

In terms of the federalism debate in Nigeria, the picture mainly indicates that in spite of Nigeria's unsuitability for the practice of federalism (Awolowo-Dosunmu 1994; Wonotanzokan 1994), federalism is generally accepted by many as necessary for managing the country's ethnic diversity as reflected in the adage 'unity in diversity' (Jinadu 1994; Agbese 1999; Momoh 1999). Indeed, there has been an upsurge in the literature on federalism in Nigeria in recent times (Uwazurike 1997; Ekeh 1997; Suberu and Agbaje 1998; Gana 1999). The views expressed mainly take a composite or specific approach to addressing the myriad of issues surrounding Nigeria's federalism, though most stress the 'integrative needs of the state'. An important aspect of the debate, however, revolves around

the central 'mobilisational orientations' of a federalist ideology in respect
of whether this should be 'centralist', 'decentralist' or 'balanced'. The
major institutional design problem has been over the division of powers
and functions at the various levels of government (federal, state, and local
government). It has been a case of how to strike a balance between
opposing demands for centralisation or de-centralisation of power (Jinadu
1994:57). There is the problem of how to design the federation in such a
way as to prevent an ethnic group or a combination of ethnic groups, or
one state or a combination of states, from perpetually dominating and
imposing their will on other ethnic groups (Jinadu 1994; Awolowo-
Dosunmu 1994). In Nigeria, one cannot discuss federalism outside its
implications for the country's ethnic diversity. For instance, federalism
was introduced in Nigeria more as an instrument of divide and rule than
as a mechanism for promoting unity-in-diversity which it eventually came
to represent in the post-colonial era (Awolowo-Dosunmu 1994). Variously
discussed in the debate have been the impact of prolonged military rule
on federalism and the resultant operational defects.

It is generally accepted that so far federalism as a conflict management
system has failed to remove the bogey of ethnicity, sectionalism and
religion from Nigeria's body politic. With over forty years of trying to
navigate through the murky waters of Nigeria's politics, many, including
the nationalists, politicians and civil society, have become despondent to
the extent that one can hear voices calling for the outright balkanisation
of the country. But somehow, the country has survived its many travails,
including a fratricidal civil war between 1967 and 1970 in which over a
million people, mainly civilians, died.

Further, in Nigeria, the contestation over federalism has fundamentally
manifested itself in two principal ways—either as a quest for access and
control over political power or as access to federally generated revenue.
As observed by Momoh (1999:3), the task of social engineering and
reconstruction of the notion of federalism in both form and substance
was left in the hands of the military. It was not therefore surprising that
the crisis of federalism deepened in the country. For instance, as the federal
government created new states, more were demanded from all nooks and
crannies of the country. Also, as the revenue allocation principle was
restructured in favour of the states, there were more demands for increased
revenue from the states and local governments. By and large, the Federal
Government in the country has been perceived as being too strong. And
since it had largely been controlled by military elements from the northern
and western parts of the country, it was considered an obstacle to the fair

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and just development of the other component units of the federation. Therefore, it is not out of place to note that the peculiarities, irregularities and tensions that vexed and continue to vex Nigerian federalism stemmed in part from the arbitrary rule of the military (Suberu 1994:68).

However, there is little doubt that the desire to improve on Nigeria's federal practice exerts a magnetic force amongst many Nigerians. In the post-transition situation in which the country finds itself, the primacy of constitutional federalism has become imperative. In the current dispensation, the expectation is that the various vexatious issues like the over-centralisation of powers by the Federal Government, the creation of states, revenue allocation, the creation of Local Government Councils and the question of citizenship, especially as it relates to gender, will be given urgent attention by all stakeholders. In other words, the imperative for a Sovereign National Conference (SNC) or a National Conference is still very much on the national agenda as a possible approach to re-inventing federalism in post-transition Nigeria.

As the debate continues, this article engages with the practical imperatives of federalism in the Nigerian context in advocating 'power-sharing' as an immediate, but short-term response to the problem of over-concentration of power at the federal level, and indeed, recommends this step as crucial for federalism in other deeply divided societies.

The notion of federalism

Federalism in principle implies the construction of a system whereby consensus is reached between current demands of union and the territorial diversity within an emerging society, by the creation of a single political system within which central and provincial governments are assigned coordinated authority in a manner defining both the legal or political limits of equality or subordinate functions (Forje 1981:3). Usually the limits are spelled out within the constitution stipulating what each party can or cannot do. According to Wheare (1964), the desire and capacity for federalism entails a number of prerequisites involving among others 'geographic proximity, hope for economic advantage, wishes for independence, earlier political ties and insecurity and similarities of traditional values'. Generally, federal political systems, unlike unitary systems, are less efficient and are slower in policy making and policy implementation due to broad inputs from local and regional authorities, which are encouraged and usually respected. Ideally, nations decide to federate due to one or a combination of the following three factors—socio-economic, political, or security considerations. In terms of socio-economic factors, it is assumed

that some of the following factors are pertinent, namely the presence of shared values, access to a larger domestic market, access to a seaport, access to higher standards of living and the enhancement of welfare policies. Politically, the considerations include the strengthening of existing relations with the co-federating units and bringing about a stronger voice internationally. Security-wise, it is for the unit in question to be able to protect itself from real or imagined threats to its survival as an entity.

On the other hand, a confederation which is quite frequently confused with a federation, is a loose association of independent and sovereign states which goes beyond the context of alliance by establishing some common political and administrative organs but without setting up central governmental authorities (Kousoules 1979:408). In drawing a clear distinction between confederacies and federations, Deutsh (1980:189), reveals *inter alia* that states often may secede from confederacy if their own governments or voters so desire, whereas such secession is not permitted in a Federal Union.

Federalism and democracy: A theoretical viewpoint

Africa's new rulers after the independence era realised that while the colonial governors appeared 'omnipotent', they had in fact very fragile bases of power. This led the colonial governors to adopt unitary systems of government which emphasised the penetration and control of sub-national units and the centralisation of authority as against a federal system. In the unitary system, sub-national units look to the centre for the powers and resources. Most African leaders subsequently opted for the unitary system of government with federalism perceived as a crisis escalator rather than a crisis damper (Elaigwu 1994:76).

For countries where the ethnic issue has complicated governance, federalism seeks to address this problem through structures designed to dissipate power, influence and resources. Federalism is thus a framework to ameliorate the disruptive tendencies of intra-societal ethnic pluralism. As a form of political organisation, federalism involves the constitutional division of powers between general and constituent governing bodies so that the jurisdiction and decision-making authority of all within their respective spheres of authority are protected. It allows ethnic groups to exercise significant authority within their own territorial jurisdictions while at the same time providing hegemony for national political institutions (Long 1991:192).

Classical theorists of federalism such as Wheare (1964) and Duchacek (1977) equate federal government with democracy. Ivo Duchacek has

argued for instance that 'democracy and federalism are always found together [and that] federalism is a territorial dimension democracy ...' (Wonotanzokan 1994:116). From our theoretical viewpoint, considering the issues of equity and the ethnic imperatives that come with it, federalism is understood not as an end in itself but as a means to an end. Conceived as a means, federalism serves the purpose of providing structures for the management of ethnic diversity through 'power-sharing' in multinational states. It is from this perspective that this article seeks to re-examine Nigeria's federalism with a view to improving on its consociational practice, which though largely unwritten, has proven relevant to its survival.

Fundamental to the crisis of federalism in Nigeria has been the way class interests and class ideology have intermingled with other equally intervening variables like militarism, religious bigotry, ethnicity and accumulation to produce what one may term an ideology of domination (Momoh 1999). This concerns most significantly, the minority groups in Nigeria and their position in the federal equation. Regionalisation was perceived to have accentuated minority ethnic consciousness as it grouped various ethnic nationalities within the then existing three regions of North, East and West (Osaghae 1991:139). Each of these three regions had a dominant ethnic group—Hausa-Fulani, Igbo and Yoruba respectively. Consequently all the other Nigerians became ethnic minorities. In the context of modern day Nigeria and politics, ethnic minority politics has basically relegated the minorities to dominated or subordinated groups who oftentimes took solace in engaging in 'spoiler politics'. Not surprisingly, many of these groups are in the forefront of the calls for a restructuring of the Nigerian federation. Minority agitations over power, representation and control over resources pose fundamental challenges to the 'nation-state' project in Nigeria.

A review of Nigeria's federalism

> Like other federations created by Britain, and in the quest for economic and imperial gains in foreign lands, totally dissimilar or diverse peoples— diverse in culture, religion, ethnic and tribal groupings —were brought together under one political umbrella (Nwankwo & Ifejika 1969).

The above extract succinctly captures the major historical and causative factor for the seemingly intractable problems associated with the nation-state project in Nigeria (Olukoshi & Agbu 1995). The evolution of Nigerian federalism can be traced to the beginning of the colonial Nigerian state,

which was wrought through the amalgamation of the separate colonies of
Northern and Southern Nigeria in 1914. Severally denounced by politicians
and even some of the 'nationalists' as the 'mistake of 1914' or as a
'geographical expression', Nigeria and its travails can indeed correctly
be attributed to the imperial machinations of the British colonialists. By
the grace of the British government, Northern Nigeria, one of the three
regions of pre-independence Nigeria, had a size and population larger
than that of all the other regions put together. By this fact, the control of
the central government became rather permanently stuck in the hands of
the North which was more amenable to British influence than its Southern
counterparts (Nwankwo and Ifejika 1969:2).

The British colonial government acted as if it was unaware that
Nigeria's most basic problem then was sub-nationalism—a term which
denoted group loyalty or group solidarity along ethnic, linguistic and
cultural lines. This predisposition to tolerate the problem of sub-
nationalism appeared deliberate as Lord Fredrick Lugard, the then
Governor-General of Nigeria, tolerated Northern conservatism in his
anxiety to adopt the system of *indirect rule.* According to Nwankwo and
Ifejika (1969:258), the North was encouraged to look different and to
develop along its own lines, and the natural consequence of this policy
was that the North did not feel itself to have anything in common with the
South. Hence even the common experience of colonial tutelage became
an additional factor of divergence rather than a basis for unity. It is
particularly interesting that Nigeria's federalism is not supported by either
geography or natural factors.

Let us recall that it was in 1954 that the colonial state functionaries
and 'nationalists' arrived at the consensus that federalism was the best
form of power-sharing for the country. However, according to Gana
(1999:1), the choice of the federal formula was informed not so much by
the intrinsic qualities of federalism as a mode of exercising authority while
simultaneously accommodating irredentist claims to cultural autonomy,
as by the realisation, especially within the ranks of the southern segment
of the nationalist movement, that it was the best deal they had for wresting
independence statehood from the British. In addition, the East and the
West obtained their self-governing status in 1957, and the North in 1959.
Each could have opted to go its own way at this period without so much
opposition, but this did not happen. Even the Mid-West decided to remain
as a constituent unit of the Nigerian federation in 1963. It is instructive to
note that none of the federating units became parts of a federal Nigeria at .
this period in time to forfeit their independence.

During this period, there appeared to have been a preference for the Wheare model of federalism by the 'nationalists', which canvassed a co-ordinate division of powers between the central and state governments, in which none is necessarily superior, but have their spheres of influence (Wheare 1964). The demand for 'true federalism' and the Wheare formula was more vociferous in the Eastern and Western regions which incidentally had the highest increases in revenues between 1953 and 1960, recording increases of 214 percent and 247 percent respectively as against 94.4 percent for the North and 74.4 percent for the central government (Dudley 1966:17). The point that one can infer from the above is that the regions wanted to be as independent as was possible. Therefore, national integration could not have been a priority to the successors of the colonial government. In fact, it is a miracle that the Nigerian experiment has lasted as long as it has, because as was observed by Jennings (1954:40) the choice before the parties to the independence contract was not between a good, effective and efficient government and a bad, inefficient one, but between having a government at all or not having one (Gana 1999:14). In the post–independence period, Nigeria could at best be described as constituting a military federalism (Elaigwu 1979:177), which is in fact, a contradiction in terms, as the reality was that federalist intentions were transformed into a unitary command under military rule.

On the position of the various minorities in the Nigerian federation and their impact on the processes of federalism, the Federal Military Government of Nigeria had the following to say in 1967—'the failure of the Nigerian constitution at independence in 1960 to recognize the strong desires of the minorities and other communities for self-determination affected the balance of power at the centre, and that this deep-seated imbalance "plagued" the first Republic throughout its life' (FMG 1967). Subsequently, what is called minority politics has increasingly become a major equation in the federalist calculations in Nigeria. Beginning with the Sir Henry Willinks Commission in 1958, the observation that minority groups should be accorded the same primacy in matters relating to the recognition of group rights, the distribution of state power and development, increasingly became current. This is because it appears that over the years the three major ethnic groups of Hausa-Fulani, Igbo and Yoruba had together exercised control and dominated the dynamics of Nigeria's politics and the direction of growth. In more recent times, oil and the demands of the oil-producing states have been at the heart of the clamour for the restructuring of Nigerian federalism. Some of the perceived injustices, according to the minority groups, include institutionalised social inequality,

denial of access or rights to their citizens of the oil-yielding land which is theirs, from water and other resources derivable from it, economic restitution for the degradation of the eco-system in the Niger-Delta and in short, the control of resources within their territory. Whilst initially the response of the federal government was piecemeal and the situation gradually tended towards ethnic militancy and outright demands for internal self-determination by aggrieved minority groups, the situation has improved significantly under the democratic dispensation. The National Assembly passed a Bill which empowered the Federal government in 2001 to establish a comprehensive development programme for the Niger Delta to be supervised by the Niger Delta Development Commission (NDDC). Since then, the NDDC had executed over 800 projects that directly benefitted the peoples of the Niger-Delta still the agitations for economic restitution continue.

Below is a bird's eye-view of the various phases through which Nigerian federalism could be said to have passed:

Phases in Nigeria's Federal Practice

Phase	Type of Government	Federal Practice	Comment
1954–1966	Colonial/civilian Rule	Strong	Functioned fully despite imperfections
1966–1979	Military	Weak	Over-centralization of Public Policies
1979–1983	Civil Rule	Weak	Imitation of Unitarist tendencies of the military
1983–1998	Military	Very weak	Over-centralization of Public Policies
1999–	Civil Rule	Strong	Slow in adjusting to democratic practice

Source: Updated from Peter P. Ekeh (1997), *Wilberforce Conference on Nigerian Federalism*, New York, Association of Nigerian Scholars for Dialogue.

From the table above, it is clear that apart from the 1954–1966 phase, federal practice in Nigeria has been weak indeed as the actual practice of federal governance has not in any way approximated the expectations from the system. This situation has been the same irrespective of whether there had been civil or military rule. This is not to say, of course, that civil

democratic governance is not a more conducive environment for the practice of federalism. Indeed, with the enthronement of democratic governance in Nigeria since 1999, it is expected that far-reaching adjustments will have to be made in the mode of federal practice in contradistinction to what had hitherto been the case.

It is important to note that, Agbese (1999:11) pointedly remarked that despite the emotional attachment to federalism in Nigeria on the grounds of ethnic and cultural heterogeneity, the constituent units of the federation are not based on ethnic or cultural demarcations. He points out that Nigeria is rather a federation of states, and the states do not necessarily correspond to ethnic and cultural distinctions. Although its federalism is stoutly defended on the basis of its ethnic and cultural heterogeneity, its heterogeneity does not form the basis of its component units. Yet, as noted by Olukoshi and Agbu (1995:97), none of the principal forces at the forefront of the campaign for the reconfiguration of the federation has seriously advocated the complete dismemberment of the country or the dissolution of Nigeria as a country. Nevertheless, insensitivity to the demands of aggrieved groups and the lack of social justice may make this radical step a political option. The reality remains however: that whether Nigeria is a historical accident or a mere geographical expression it is still a political entity and has over the years assumed a character of its own. Dismemberment of the country may not necessarily solve the problem of nation building, as minorities will still be created within the new states. The thrust in this article is to explicate the character and dynamics of nation building in divided societies like Nigeria, and thus be able to offer explanations and possible recommendations. This is by no means an easy task, for as Abubakar Tafawa Balewa, Nigeria's first Republic Prime Minister said to Harold Wilson, the British Prime Minister: 'One thing only I wish for you, that you never have to become Prime Minister of a federal and divided country' (Kirk-Greene 1975). A few days later, the first military coup d'état took place in Nigeria on January 15, 1966 and Balewa fell a victim to it.

Persisting problems in Nigeria's federalism: The national question still unresolved

Major problems still persist in Nigeria's federal practice, and the 'National Question' remains unresolved. To date many Nigerians do not feel quite at home with the 'Nation Project', and are still waiting for the day when they can truly have a sense of belonging to the entity called Nigeria. This fact was clearly manifest when the late multi-millionaire politician,

Moshood Abiola, was set to win what could have been a landmark
Presidential election on June12, 1993, only to have it annulled by the
military constituency. Had this not been the case, Abiola's victory would
have cut across ethnic, regional, and religious boundaries, which had never
happened in the previous elections, and would have positioned the country
firmly on the path to real democratic governance. As it were, this 'window
of opportunity' was allowed to slip by, once again calling into question the
basis for unity in the country (Akinola 1996).

Again, people like the late Major Gideon Orkar and his men were to
remind us about the fragility of the Nigerian state when in April 1990
they made a statement through an aborted coup d'état against the Ibrahim
Babangida ruling junta. Their objective, they claimed, was not just a coup
but a revolution planned and executed for the marginalised, oppressed
and enslaved peoples of the middle belt and the south who had for long
been oppressed and colonised by a small clique of people. They even
went as far as announcing the excision of five supposedly culprit states of
Sokoto, Borno, Katsina, Kano and Bauchi from the country, considered
to be a grave mistake on their part as far as the timing was concerned
(Agbese 1999:18). The announcement jolted would-be supporters from
the excised states both within and outside the armed forces and made
them enemies rather than compatriots. This notwithstanding, the point
had been made. There was something wrong with the structure of the
Nigerian federation, so wrong that aggrieved individuals were willing to
risk their lives to put it right.

By 1994, the ruling military oligarchy had been sufficiently mortified,
especially in view of the opposition from civil society (Agbu 1998), and with
the restiveness of the minority groups in the Niger Delta, they were now
willing to organise something close to a national conference. But the conference
lacked the required legitimacy, with many in the western part of the country
from where embattled Abiola hailed refusing to participate in the process.
Nonetheless, the conference came up with some important recommendations,
with the most important being the recommendation for a 'rotational
presidency' which implied a sort of power-sharing through geo-ethnic
power balancing (Uwazurike 1997:330). Other recommendations included
the restriction of the President to a single five-year term and a multiple
Vice-Presidential system in a French-style Presidential/Parliamentary
arrangement. Some of these recommendations were later dropped and
others enshrined in the aborted 1995 constitution.

In terms of concrete issues, the creation of states has over the years
been a major bone of contention and one of the most politicised aspects

of Nigeria's federalism. All too often, each government that came to power invariably decided to leave a legacy by creating additional states. This was also a way through which the various military regimes rewarded loyal officers and men and their civilian supporters by creating public offices for them. This was usually done without rational considerations as to the political and economic implications involved. Hence, from the creation of the mid-West region (later, a state) and a four region structure from 1963 to 1967, the country now has a thirty-six state structure including a Federal Capital Territory (FCT) at Abuja. An explanation for this phenomenal increase in the number of states as constituent units from 12 in 1967, 19 in 1976, 21 in 1987, and 30 by 1996, to the present structure, is that the dominant ethnic groups rightly or wrongly believed that this was a way of gaining access to more of the national appointments, and the fiscal and other resources from the centre. Usually such access depends on the bargaining ability of the elite from a particular ethnic group. Basically, the implication of the above for Nigeria's federalism is that the system is not being practised the way it should be and there is the imperative for some sort of re-structuring of the system in such a way that the states do not have to rely so much on the centre for their survival.

On the federally collected revenue and the revenue allocation formula, again, the trend has been for the elites to try to influence or manipulate the formula in such a way that it benefits them. Note for instance that from the initial use of the principle of derivation in the early to mid-1960s, the more recent practice is the use of the principle of equality of states with land mass and population as more important criteria. Of course this makes for inter-governmental conflict, as land mass, for instance, cannot on its face value be more relevant than derivation. It has been argued that the principle of derivation was unjustifiably de-emphasised because of the shift in revenue generation from the majority groups that are more politically powerful to the minority areas that are comparatively weaker politically (Mbanefoh and Egwaikhide 1998). In fact, according to Quaker-Dokubo (2000), while in March 1969, 50 percent of both off shore and on-shore mining rents and royalties were allocated to the state from which they derived, by March 1979 only 20 percent of on-shore mining rents and royalties were allocated on the basis of derivation. The derivation principle was subsequently expunged from the revenue sharing system in 1979 based on the recommendations of a Technical Committee on Revenue Allocation. As expected, the issue of revenue allocation has provided the primary arena for distributional politics and struggles in the Nigerian federation. In more recent times, this issue has revolved around

the following—the conflict among the federal, state and local governments; tensions among the states and their localities, tensions between the oil-producing states and the federal government on the one hand, and between the federal government and the other states over revenue matters (Suberu and Agbaje 1998:342). Put succinctly, Nigeria's current revenue allocation principles and practices are a recipe for inter-ethnic tension and intergovernmental contention (Suberu 1997:347).

The distributional pressures associated with Nigeria's federalism have also found expression in the politicisation of censuses. All of the post-independence censuses held in 1962/63, 1973 and 1991 have provoked intense controversies similar to that generated over the states creation issue. Again this is so mainly because of the demographic implications of census figures both for electoral advantages and revenue distribution. The Nigerian public has been made to believe that its ability to gain access to good roads, pipe-borne water, schools and other miscellaneous amenities is largely dependent on the outcome of the census figures. It was noted, however, that the 1991 census owing to its astute design and execution generated far less controversy as religious and ethnic questions were excluded from the questionnaire (Suberu 1994:62). This was only comparable to the pre-independence 1952–53 count in not being too controversial. In spite of this, the tribunal set up to investigate complaints arising from the 1991 census still had to contend with a total of 131 petitions involving 27 out of the then 30 states. In fact, no one is really very sure of either the total population figure or its breakdown. The population figure could range from 110 to130 million people. Again, this is because of the over-politicisation of population issues.

Another very controversial matter in Nigeria's federalism is the citizenship question. Many Nigerians do not feel that they are truly citizens of Nigeria in the sense of having and being able to claim privileges as citizens within the country. Nigerians who reside in a part of the country different from their home states face political, social and economic discrimination in several forms, which ideally should not be the case in the type of federal system in operation. As Nnoli (1995:159) observed, the long residence of a migrant in a community is no guarantee that he or she may ever hold any political office in that community. As a matter of fact, many migrants do not participate in political activities in their places of migration; rather they register to vote in their home states and return to do so during elections, and also during periods of censuses. Although they may pay taxes in their communities of residence, they still experience discrimination in the enjoyment of public amenities, like the enrollment

of their children in state-run schools, employment, housing and even scholarships. This situation was aptly depicted by the case of a married woman who was denied a scholarship solely because her state of birth, Kaduna state, insisted that she had lost her indigeneity by marrying a man from Benue state. Ironically, the husband's state, Benue, also held that she was a native alien and, therefore could not be considered (Nnoli 1995:159). It is therefore clear that the citizenship question is a serious and sensitive matter in any attempt at addressing Nigeria's distorted federalism. As Ayoade (1998:17) has remarked, the denial of status to a woman in her husband's home state is a grave issue that should be central to considerations of citizenship rights in a federal system.

Added to the afore-mentioned issues is the role of religion both as a political instrument and an organising principle to the detriment of the federal enterprise. Given that Nigeria harbours a predominantly Hausa-Fulani Muslim North and predominantly Christian Igbo/Yoruba minorities in the South, the potential for politico-religious conflict is high. This situation is not helped when the government itself consciously gives prominence to one religion as against another. Previous constitutions, and the more recent 1999 Nigerian constitution, incorporated the principle that 'the Government of the Federation or of a State shall not adopt any religion as State Religion' (Section 10). In spite of this expressed provision, the Ibrahim Babangida ruling junta in 1986 secretly enrolled Nigeria into the 45-member Organisation of Islamic Conference (OIC), oblivious of the implications this may have on the country's secularism. As expected, Christian-Muslim antipathies have been heightened since then with all of the aforementioned contentious issues, including electoral politics, now critically viewed or perceived also through a religious prism. The recent resort by a section of northern politicians to fan the embers of conflict and further politicise the issue of the Shari'a legal system by encouraging and allowing some state Governors to officially adopt it as state policy for political ends indicates that these politicians have learnt little from the country's recent history. There is therefore very little doubt that Nigeria's federalism faces very grievous challenges, which have to be addressed collectively in the search for a more acceptable arrangement.

Post-transition politics: Federal character, federalism and the 1999 constitution

Now that Nigeria has a democratic government, how does this impact on the need to resume the march towards 'true federalism'? Does the National Assembly have the political will and the constitutional capacity to engage

in reforms? There is little doubt that the environment for governance and politics has changed significantly for the better in contrast to the authoritarian and dictatorial environment under the preceding military regimes, especially that of Sani Abacha. Though many Nigerians expect immediate and far-reaching changes in the polity, this may not easily be realisable in the near future as many of the problems facing the government have their roots in the past.

The background to the character of the immediate post-transition political environment could be traced to the manner in which the President-elect, Olusegun Obasanjo, became President. The belief was that due to the June 12, 1993 annulment of the Presidential elections which shook the confidence of the rank and file of the people in the country, the dominant and ruling political elite sensing a very serious threat to the survival of the Nigerian state, their principal source of primitive accumulation, decided to assuage the feelings of the Yorubas by allowing for a Yoruba ticket in the Presidential elections of 1999. This was in a way the realisation of the 'Power shift theory'. According to Ibrahim (2001:2), a political pact had been worked out by the political class in which Northern politicians, whose constituencies are a numerical majority in the country, agreed not to contest the Presidency so that a Southerner would emerge as President, and political tension would be calmed down in the country. Hence, the two candidates that emerged as candidates from the Northern dominated party; the Peoples Democratic Party (PDP) and the All Peoples Congress (APP)/ Alliance for Democracy (AD) coalition, were both Yorubas, and Obasanjo emerged as winner.

The first two years of the Obasanjo Presidency were not easy, as he had to address a myriad of issues which included rising unemployment, fuel scarcity in an economy whose mainstay is petroleum, entrenched corruption in high and low places, the issue of resource control, religious conflicts, the problem of insecurity and the haziness surrounding the constitutional provisions of the functions and tenure of local governments as contained in Section 7 Sub-section 5, 6(a) and 6(b) and more elaborately in the Fourth Schedule of the constitution. On the issue of resource control for instance, the oil-producing minority states have found the rather deficient response of the Obasanjo administration to their demands offensive, even with the creation of the Niger Delta Development Commission (NDDC). This commission is expected to be the lynch-pin for a comprehensive development programme for the Niger-Delta, with a substantial amount of money budgeted for its activities. On the other hand, the Igbos of the east central area of the country are still complaining of

marginalisation in the power equation and in the distribution of federal amenities, and therefore demanding some sort of redress from the centre. In the North, the current threat to the federal experiment is the introduction of the Shari'a legal system and its potential for conflicts between Christians and Muslims. It appears that the northern political elite, feeling the loss and perquisites that follow from the control of the centre for the first time in a long while, unearthed the Shari'a issue as a trump card for purely political ends, both for the immediate and distant future. In February and in June 2000, there were bloody conflicts between Muslims and Christians in Kaduna, in which many lives were lost and property destroyed. Still rather insensitive to the real and potential conflict that the introduction of this issue has generated, the Executive Governor of Kaduna state announced also the intention of his government to introduce the Shari'a legal system in areas with a large concentration of Muslims in the state. The Federal government simply maintained a studied silence since the Shari'a issue was obviously a political trap. There were also clashes in Jos and in Lagos in September and October 2001. The government subsequently took these disturbances more seriously with the deployment of armed personnel to contain the crises in each instance. Added to all these is the recent phenomenon of ethnic militancy which basically questions the ability of the Nigerian state to protect its citizens. There are now militant groups like the Oodua Peoples Congress (OPC), Arewa Progressive Council (APC), and the Movement for the Actualisation of the Sovereign State of Biafra (MASSOB) and many others in the Niger Delta Area, all purportedly prepared to defend the interests of their ethnic groups.

The federal principle shepherded by the Federal Character Commission has been the main response of the Federal government towards addressing the distortions in Nigeria's federal practice. Still retained in Sections 14 (3–4) of the 1999 Constitution, this principle states *inter alia* that

> The composition of the Government of the federation or any of its agencies and the conduct of its affairs shall be carried out in such a manner as to reflect the federal character of Nigeria and the need to promote national unity, and also to command national loyalty, thereby ensuring that there shall be no predominance of persons from a few states or from a few ethnic or other sectional groups in that Government or in any of its agencies.

According to Nnoli (1998:151), historically this means balancing the North and the South—Igbo, Yoruba, Hausa-Fulani, and this trinity as a whole against other minority groups. The emphasis appears to be on the sharing

of benefits and privileges that come with participation in government. It therefore appears that there is the absolute necessity for a fundamental re-visit of the whole issue of 'federal character' with a view to ensuring that the negative effects do not exceed the positive since the strategy appears to be just a palliative. The fundamental problem of Nigeria's federalism still remains the over-centralisation of powers and resources in the national government, and the destructive and divisive struggles for the control of the centre that this centralisation invariably engenders (Ekpu 1994:6). In the interim, while power-sharing arrangements are rational, in the long run, the key challenge for constitutional design in Nigeria is the elaboration of strategies for decentralising or redistributing powers and resources.

The Nigerian constitution, in fact, has been changed at various stages but without yielding satisfactory results. The independence constitution of 1960 and a revised Republican constitution in 1963 to a significant extent captured the aspirations of Nigerians at the time. The people and their representatives carefully worked out these constitutions after a series of conferences involving negotiations and compromises. As was usual, the military's first response on taking over power was to suspend certain portions of the constitution considered to be at variance with their ability to enjoy unchallenged power and authority. Indeed, previous military regimes sponsored four constitutions that would apply to civilians after supervised transitions to civil rule. These were the 1979, 1989, 1995, and the 1999 federal constitutions. Not surprisingly, the 1999 constitution has exhibited glaring shortcomings, which are now creating problems for good governance and federal practice in the post-transition democratic environment. Retrospectively, under military rule, the Federal Government overloaded itself with roles and responsibilities that rendered its performance unsatisfactory (Ekeh 1997:8). Therefore, a reform of governance calls for a reapportionment of new autonomies for the states and local governments. Some of the issues that immediately come to mind include the question of the creation of states, control of the police force, resource control and derivation, and the proper constitutional provisions for the Local Government Councils. Though there have been vehement calls by some state governors for state control of the Nigeria Police, especially in the light of serious security concerns, the issue does not appear to be a priority now. Since Nigeria is adjudged as politically immature at present, putting the control of the Armed Forces or the Police into the hands of biased, intolerant and sometimes illiterate government officials will amount to courting incidences of ethnic cleansing or politicides.

Still new areas of contention between the Federal Government and the states keep emerging. Note for instance, that although judicial matters are in the Concurrent list, the Federal Government in a statement by the Chief Justice of Nigeria in 2000 stated that it would formally take over the payment of all federal and state judicial officers. This decision of course raises serious problems about the country's federalism even in a supposedly democratic environment (*Vanguard* 2000). The problem of the Local Government Councils is particularly explosive with political implications because the ruling party, the Peoples Democratic Party (PDP), is exploiting the lack of constitutional clarity to pass an electoral bill extending the tenure of elected Local Government Chairmen from three to four years. This step eventually led to the Presidential elections being held first before the other elections in 2003. Though the thirty-six states with their States Houses of Assembly rejected this bill and went to court, the Senate and the House of Representatives with a PDP majority in both Houses passed the bill, which was obviously most unpopular (*The Guardian* 2001). In view of the implications of this action for Nigeria's nascent democracy, civil society organisations, including the Human Rights Groups and the Campaign for Democracy, warned all stakeholders in the Nigerian Democratic Project to be wary of the consequences that may arise from this controversial bill. It is now left to President Obasanjo using his discretion to either give assent to the bill or deny the passage as provided for by the 1999 constitution. The point is that Nigeria's federalism is being put to test on a more frequent basis in the new democratic environment and will continue to be put to the test until the necessary changes required for an acceptable federal system are worked out. The calls for a Sovereign National Conference are still loud, coming this time around from the Middle Belt, the Niger Delta, the West, and the East. It is a call that has refused to go away, while the Senate, the principal law-making organ has refused to heed to these calls on the grounds that they are the legal representatives of the people and can therefore be relied upon to make the relevant laws for the governance of the country. But bearing in mind the fact that the 1999 election was one in which Nigerians just wanted to get the military out of power at the expense of electing their true representatives, are these Senators and members of the House of Representatives truly the peoples' voices?

In terms of the review of the 1999 constitution, the government put in motion a review committee which called for memoranda on inputs into the constitution with a view to amending portions that were problematic.

A zonal presentation of the constitution was embarked upon and is expected to provide the basis for its eventual amendment. The result has been made available to the federal government, but is yet to be implemented.

Taking the bull by the horns: Re-inventing federalism in a democracy

What then are the prospects for a realistic federal system in Nigeria? Considering the political and economic dimensions of this problem my position is that it is now time for the politicians and all stakeholders to take the bull by the horns and do what should have been done long ago - something which appears to be taking shape gradually. This is the rational decision of designing some power-sharing arrangement for a period of time, with the possibility of its being renewed subject to the existing circumstances. This I think is absolutely practicable, as it ensures that as many diverse groups as possible within the polity have the opportunity or the belief, even if this is only psychological, of participating actively at the highest levels of government. I know that the idea of 'power-sharing' or some sort of consociationalism has been significantly criticised in the literature (Powell 1982; Jackson and Rosberg 1984; Joseph 1991; Suberu and Agbaje 1998). However, this idea should not be totally disregarded, as it could still be relevant in particular situations. It has been considered undemocratic and restrictive of choice in public leadership. It has been further argued that it is not a guarantee of political stability or bulwark against military intervention, and lastly that it is a formula for sharing power at the elitist level without addressing the yearnings of the masses at the bottom of the society (Akinola 1996:xiv). In addition, it has also been seen as detracting from the putative role of federalism and presidentialism as integrative institutional mechanisms. Some argue that it rather serves as an instrument for reproducing or reinforcing the country's inherent ethnic divisiveness and competitiveness (Suberu 1997:345; Joseph 1991; Madunagu 1993:13). My response to these fears remain the same. We must move from the actual to the ideal. We must exhibit the required courage to devise political systems that suit the demands and ethnological composition of the particular society. To this extent, 'power-sharing' still offers representation to marginalised segments of the society at the strategic and highest levels of decision making. The consociational theories of Lijphart (1977) indeed, perceive this intervention in terms of the 'segmental cleavages' of plural societies and the imperative of 'elite cooperation' drawn from the various segments. It reiterates the necessity for a high degree of autonomy for each of the separate segments, federalism

or provincial devolution as well as the principle of proportionality in legislative, administrative and executive appointments being crucial ingredients for stability. Permit me to remind you of the underlying philosophy of the much admired but also reviled scholar and diplomat, Niccolo Machiavelli, who in conceptualising *The Prince* had this to say:

> The gulf between how one should live and how one does live is so wide that a man who neglects what is actually done for what should be done learns the way to self-destruction rather than self-preservation.

There is clearly the need to be more realistic, as recent experiences in political governance not only in Nigeria, but also in many other parts of Africa like Ethiopia and Chad, clearly indicate the need for rational political inventions and independence of thought in designing governmental structures. I believe that the strategy proposed here makes for short-term stability, which is necessary for institution building and development. Without some semblance of stability in our quest for the proper practice of democracy in the post-transition period, very little may actually be achieved in deeply divided societies like Nigeria. So far, Nigeria has been able to have a workable democracy since 1999 because of the conscious decision by the northern politicians to allow a power shift elsewhere. This is what is meant by arguing that the political will must be there for the system to work. Indeed, this type of political will is aptly captured in an Igbo adage, which literally translated goes thus: 'Let the hawk perch, let the eagle perch too, but let the one which prevents others from perching lose its feathers'. However, the desire is for none of the birds to lose its feathers, rather it is for each of the birds to stick faithfully to the agreed perching formula. The survival of Nigeria's federalism and democracy is inevitably, inextricably, tied to the designed and acceptable framework and the dynamics of relations generated between the various stakeholders.

Although the original idea of Nigerian federalism did not derive from the existence of ethnic and cultural pluralism per se, it has since become an article of faith that the country's size and ethnic complexity make federalism imperative (Aborisade and Mundt 1998:117). This is because all things being equal, it allows for political participation and decision making with the different groups empowered to deal with their own problems. Federalism does indeed provide the umbrella for political inclusiveness if practically designed and implemented. It is fairly common knowledge that there is a strong anthropological basis for representation through conscious geo-political inclusiveness. This is in tandem with the

deep-seated African sense of justice and fair play, which is highly suspicious of the logic of majoritarian, zero-sum power divisions (Uwazurike 1997:334). Therefore, the particular complexion which a country's federal system assumes should reflect its diversities, historical experiences and the disposition of its peoples at the particular point in time in such a way that some compromise exists between local particularisms and national objectives (Agbaje 1998:124).

Any constitution designed to address the above must be able to draw from the history and ethnological realities of the country. The British and American models, which Nigeria had copied in the past, failed to take these into consideration. Akinola (1996:13) observed that it was in recognition of the ethnological factors of Nigeria and the experience with the parliamentary system that the defunct National Party of Nigeria (NPN) constructed a model of 'zoning' designed to alternate the geo-ethnic origin of the Party's Presidential, Vice-Presidential and Chairmanship candidates from one election to the other. In spite of the fact that the National Constitutional conference of 1995 lacked legitimacy, it was able to garner support from the cross-section of the delegates on the necessity for 'power rotation'. Consequently this was recommended in the draft constitution of 1995. The point remains that for all its continuing ethnic tensions and violence, and for all its increasing distortions, federalism in Nigeria has been the main factor preventing the recourse to civil war (Diamond and Plattner 1994). Today, federalism in Nigeria can imply either one of the following – negotiated settlement of contentious issues as in the creation of the mid-west state in 1963 (Vickers 2000), or the outright splitting of the country into as many realistic political entities as is possible (Ekineh 1997:12).

I therefore argue that there is the urgent imperative for the institutionalisation of 'zoning' and 'power rotation' in Nigerian federalism. So far, this unwritten practice has ensured some stability in the political environment, thereby allowing for some sort of consolidation. The six geo-political zones as have been suggested by many and consciously or unconsciously adopted by the ruling Party, the People's Democratic Party (PDP), are quite appropriate. These zones are the North-East, North-West, South-East, South-West, North Central and South-South zones. The North Central and the South-South zones largely represent the minority ethnic groups. The presidency in a federal and democratic Nigeria should be rotated amongst these zones following a sequence, which puts into consideration the frequency or number of times a particular geo-political zone had produced the President. This idea of rotational Presidency ensures

that each zone is able to produce the President within a particular period
of time and that the representatives of the diverse groups of people are
given the opportunity to participate in government, which the normal zero-
sum electoral process cannot guarantee. This experiment could last for an
initial period of 30 years during which period it would be decided whether
it is worth extending or not. Meanwhile, the political dynamics within the
various geo-ethnic zones but cognisant of the constitutional stipulations
of the revised constitution should be able to throw up the Presidential
candidates from within the parties. If politics is the art of the possible,
then it will be right to argue that political problems should be approached
from the stand of what is, rather than from what ought to be. This
arrangement, which is already in practice, though unofficially, guarantees
the stability required for institution building and economic development
in the short run. This is a device and a solution, which we must not allow
received knowledge and intellectual arrogance to becloud. Short of a
revolution, a rotational Presidency may be the only solution to the problem
of lopsided leadership by any particular segment of the dominant and
ruling political classes in Nigeria's chequered political history. On the
whole, the above recommendation is feasible if the present strong
federalism remains, but where it is loosened and weak, then zoning to the
Presidency may not be all that important (Agbese 1999).

Experiences from other countries

Experience in the practice of federalism from other countries around the
world shows that it is possible to get clear signposts from which one can
design appropriate systems of governance. India, for instance, is a strong
federation and officially secular in religious terms, but over the past
decades, despite enormous pressures, it has been remarkably successful
in accommodating diversity and managing ethnic conflicts through
democratic institutions. In India, federalism has provided the avenue,
however flawed, for expressions of cultural distinctiveness, while also
compartmentalising friction (Hardgrave 1994:72). Problems of ethnic and
religious conflicts have been solved when political and group leaders
tackled these problems through accommodation, bargaining and the
political process rather than through force. To a significant extent what is
akin to the federal principle can be found in the affirmative provisions of
the Indian constitution in Articles 25–30 and again in Article 330 and
335. In these Articles, special provisions are made for freedom of religion
(Articles 25–28), conservation of distinct languages (Article 29), freedom
to establish and administer educational institutions of choice (Article 30),

· and civil and political rights for so-called scheduled castes and aboriginal tribes (Articles 17, 330, and 335) (Hardgrave 1994:73).

A good example to buttress the fact that a rational and realistic approach to the political configuration or re-configuration of federal governance is most appropriate is Switzerland. This country was for more than five centuries an unstable confederacy until it evolved a system of a collective Presidency in which leadership is rotated annually. Since 1803, when Napoleon through his Act of Mediation intervened to unite the warring cantons, Switzerland has remained not only democratic but also progressive with four major political parties (Akinola 1996). In the case of Canada, another tested federal state, responsible government was achieved in 1848 by an alliance of English and French 'moderate Reformers' who as a result of the practical political, cultural and linguistic problems facing the settlers decided to work out sensible arrangements for governing the territories. These arrangements were with respect to the sharing of power, the role of the churches, landholding, schools and universities, which are today the basis of Canadian life (Forbes 1994:87). Surely, the continued existence of Canada as a single state would not have been possible without the bargaining and compromises with respect to power, and the protection of languages and the minorities. In the American case, the problem which the Americans were confronted with prior to the adoption of the Federal Constitution of 1787 was how to reconcile the fears of the smaller confederate states about the dominance of the larger ones. This issue was resolved by a decision to have two Houses, the Senate and the House of Representatives. Whereas the principle of equality in representation was upheld in the Senate, in the House of Representatives emphasis was placed on population. This is the model that Nigeria has adopted. Although popular, the experience is that it embodies a strong central government, which is to the detriment of many weak states whose weaknesses have intensified with each round of state creation. Hence there is the need for a re-structuring of the federation especially in terms of the devolution of powers from the centre to the component units.

In the Ethiopian case, the federal system has been presented as an attempt to prevent ethnic struggles in the country. In 1991, ethnicity was taken as the sole criteria on which to draw a new administrative map, with the final result being a country divided into nine regional states and two cities with special status: Addis-Ababa and Dire-Dawa (Serra-Horguelin 1999). Self-determination, including 'the right to secession' is the most striking feature of the 1991 constitution and this has raised fears

amongst observers as to the ability of the new system to survive (Gudina 1994). The new constitutions framed between 1993 and 1994 introduced new concepts in the Ethiopian political system like federation, devolution and the rights of ethnic minorities. Land and national resources according to the constitution belong exclusively to 'the state and people of Ethiopia' (Article 40.3 and 89.5). The states are allowed to administer the resources within their jurisdiction under the supervision of the Federal Government. The general principle is that the member states receive all the powers that have not been given expressly to the Federal Government. The prime minister is selected from among the elected representatives of the various Parties. So far, this system has worked for over a decade to the surprise of many who had predicted doom. Again, the lesson is that there is nothing wrong with reasoned re-structuring of political systems to reflect the reality on the ground. This is why the case is being strongly advocated for the formalisation of the zoning and power sharing arrangements proposed for Nigerian Federalism.

Conclusion
Though the internationally desired majoritarian electoral process with its zero-sum feature may be the vogue, the reality on the ground dictates that what is required in Nigeria is to set in motion a democratic machinery for the re-structuring of the Federation along the lines proposed. Anything short of this may actually be postponing the evil day, as experience teaches that this is fraught with danger, unless a system is designed that can ensure the devolution of powers from the centre to the states and local governments which are more accommodative of the peoples' interests. A leaner but more capable centre, economically empowered states and Local Governments, zoning and the rotation of the Presidency and other key Government positions, and political sagacity are what Nigeria needs to bring about unity, a sense of belonging, amongst its diverse peoples, and to ensure its future. This recommendation is being made against the background of Nigeria's federal experience extensively discussed in this article. In short, Nigeria's federalism appears to have been in motion, but without really moving forward. It is time not only to recognise, but also to summon, the necessary courage in constitutionally designing a power-sharing arrangement as a short-term panacea to the problem of nation building in Nigeria.

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