

JUSTICE AND HUMAN DIGNITY IN THE DEVELOPMENT OF NIGERIAN FEDERALISM AND PUBLIC SERVICE SYSTEM: THE PROBLEM OF GOOD GOVERNANCE

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Abstract

This paper "Justice and Human Dignity in the Development of Nigerian Federalism and Public Service System: The Problem of Good Governance" was aimed at identifying as well as analyzing Justice and Human Dignity as the challenges of Good Governance in the development of Nigeria Federal system. The broad objective of this paper is to assess the nature and implication of justice and human dignity as it affect good governance in Nigerian development. The paper employed the historical and descriptive approach, using secondary data. The paper is anchored on the Frustration-Aggression theoretical postulations to analyze the study and it thus, revealed that the trace of injustice in Nigerian federal structure has resulted to several agitations for state creation, revenue generation and control, equal participation of all in the management of our common wealth, unemployment, political instability, faulty electoral system and process, bloated bureaucratic corruption, faulty institutional framework, weak state, state of insecurity, increase crime wave and the development of ethnic militias in the likes of Niger-Delta, MASSOB and the Boko Haram insurgence etc; and that the application of the federal character principle in Nigeria public sector organizations has significant effect the human dignity as it has enthroned mediocrity at the expense of meritocracy and professionalism. The paper therefore concludes that the nature and structure of Nigerian federalism right from origin creates the impression of discrimination, ethnicity, tribalism and sectionalism which undermine the philosophy of human dignity and all other attendant challenges to good governance in Nigeria.

Keywords: Justice, Human Dignity, Federal Character Principle, Federalism, Development and Good Governance.

Introduction

Right from history, the management of a federal structure whether by nationalism, democracy or ethnically segmented structure, has often been with great pains. More so, when the people or nations forming the federal union are not in their self-determination but by external centripetal force like the Nigerian case, the risk is more especially in a non-democratic polity.

Nevertheless, the task of keeping the various ethnic nationalities in one federation, operated as a unitary system for the exclusive advantage of a part as evident in our federal polity is not only the task, but the bane of the ever cherished cooperative federalism in Nigeria. However, occasioned by the unfortunate emergency of the Nigerian State, borne not with the genuine desire of the various ethnic nationalities who were forcefully enmeshed and smashed under one undesirable British political structure, the dire need for the eventual survival and effective operation of Nigerian federalism has become not only an imperative but also a challenge to all the federating units to come together to fashion a workable formula for both our corporate existence and development.

The necessity to build a formidable federalism in a heterogeneous culture, with fear of political domination and perceived social injustice severally expressed within Nigerian polity, and of course, the rationale for political restructuring in a federal system like ours, cannot be overemphasized. For fear expressed by minor ethnic nationalities about Nigerian federalism, Olukoshi and Agbu (1996) in their candid view contended rightly that:

It is necessary to recognize that the crisis of Nigeria federalism is not just about bickering "tribes" but also about social injustices that are rooted in cross-national and gender conflict

Even though it is believed that the politics of federal re-structuring in Nigeria is informed mainly by elite factionalism and the President demands by pro-democracy and human rights groups for Nigerian, a sovereign national conference is indeed a sine-qua-non to balance federal structure thus political restructuring is intended to harmonize and build a collective identity for a distributive politics as well as correct perceived structural defects and lay institutional foundation for a more just and a more equitable sharing of political space by multi-national groups cohabiting in a federal polity etc. Hence, the essence of this paper to examine Justice and Human Dignity in the Development of Nigerian Federalism and Public Service System with emphasis on the problem of Good Governance with a view to shaping Africa's world.

CONCEPTUAL CLARIFICATIONS AND DISCOURSE NIGERIAN FEDERALISM: A HISTORICAL PERSPECTIVE

Before delving into tracing the historical origin of Nigerian federalism, there is need to properly conceptualize the meaning of federalism. The idea of federalism originated with the concept of intergovernmental relations and dates back to the Greek civilization when efforts were made to describe the legal relationship between the league and the city states. The honour of being the first advocate of modern federalism, went to Jean Bodin, who was quickly followed by others like Otto Cosmasnus, Hugo Grotius and Pufendorf; these writers viewed federalism as a voluntary form of political union of independent authorities for special common purposes, such as defense against foreign powers or for other reasons (Dare,1980). Though a nebulous concept, federalism has attracted continuing debates on its conceptual meaning, arising from the confusion and manner in which the concept entered into social science literature (Nwabueze.1988). Meanwhile, as a concept, federalism has been defined by various scholars.

Thus, discussions on the concept of modern federalism, start with Wheare, who viewed federal government as a constitutional arrangement which divides law making powers and functions between two levels of government. For. Wheare. federalism is a system in which two levels of government- federal and regional, exist side by side with each possessing certain assigned powers and functions (Wheare, 1968).

Although there exist plethora of definitions of federalism, the enduring general concept and nature of federalism over time, is that given by Wheare "the most fundamental and distinguishing characteristics of a federal system is that neither the central nor the regional/ state government are subordinate to each other, but rather, the various levels of government are co-ordinate and inter-dependent. Each level operates directly with the people and neither may arrogate to itself powers assigned to other" (Wheare, 1963).

However, in discussing the origin of the concept Nigerian federalism has to approach it in two perspectives:

1. Classical concept of federal in which there is a recognition of hitherto existing separate states to form a kind of union or unity with other independent states surrounding their sovereignty, Giving in parts, of their powers while presenting part of their independence. A classic case in this regard is America the decision to form a federation was taken by the independent states and conditions for the federal compact were agreed upon and effectively articulated in the process of becoming a federal state.

2. The second perspective is where states that constitute a federation were not prior to the decision to form a federation, in other words the decision to give up their independence either in part or in its entirety was not taken by the independent states. The decision is most often that of external superior authority which imposes a particular form of federal arrangement which fits its whims and caprices. It is a case with many colonial creation of which Nigeria belongs. The British government as the colonial owner of Nigeria initiated the process of integration or amalgamation of the hitherto existing independent states.

Nigeria therefore as a political entity and subsequently as a federation, owes its existence to the British government. It is in this regard that Coleman regards Nigeria as an artificial creation of the British government. Coleman finds out the artificiality of Nigeria boundary and the cultural differences among its people, point on to the fact that Nigeria is a British creation and that the concept of Nigeria itself, is essentially due to the presence of British.

However, Dudley in other hand attempted to controvert the assertion put forward by Coleman. Dudley argued that it is historically wrong to regard Nigeria as a British creation. He felt that before the advent of the British, the various groups that constitute Nigeria, were already trodden with one another and that the broad geographical configuration were already emerging. It was only a matter of time before the broad geographical mass will emerge into one geopolitical entity. He also asserted that the\ were powerful empires that were extending their frontiers and that without the intervention of the British stopping the extension of these empires; it would have assimilated rival empires. He went on to assert that like the historical account of the European nations, Nigeria would have been a big nation expanding its territory either by conquest or on agreement to form union among the different levels.

So from the period of amalgamation to the period of 1919, Nigeria was a country with two different administrations. This laid the foundation for emerging secession in political attitude, beneficial values and orientations. The prejudices and biases of colonial administration were gradually maintained, as each individual, has its own governor reporting directly to the Governor General.

Thus, there existed, two protectorates in Nigeria as at 1906. Each protectorate was divided into provinces and these provinces were based entirely on ethnic lines.

In summary therefore, federalism can be defined as a principle of government in which there are two or more levels or units of government with federal authority representing and acting on behalf of the whole on certain matters assigned to it by the constitution.

JUSTICE AND HUMAN DIGNITY

Rawls (1971: 60) argues that the public interest can be discerned in most situations by applying two "principle of justice"

- (1) That each person is to have an equal right to the most extensive basic liberty compatible with a similar liberty by others", and
- (2) That social and economic inequalities are to be arranged so that they are both (a) reasonably expected to be every one's advantage, and (b) attached to positions and offices open to all". In a situation where these two principles conflict, Rawls, states that the second should yield to the first in order to achieve effectiveness in the management of complex organizations.

Thus, the dignity of the human person should be regarded of paramount importance. This principle led to the conclusion that inequality of wealth, authority and social opportunity are just only if they result in compensating benefits for everyone, and in particular for the least advantaged members of society. These principles rule out justifying institution on the grounds that the hardships of some are offset by a greater good in the aggregate. It may be expedient but it is not just that some should have less in order that may prosper (Rawls, 1971: 61)

The extent to which the justice theory provides a guide to public administration in formulating a decision in terms of promoting the public interest can be determined by considering, "a classic dilemma in that traditionally hidebound field of public human resources management: hiring members of socially disadvantaged groups" (Henry 2002: 404). There are two positions. First, there are those who argue the government should take necessary measures, including lowering entrance standards, to hire members of those segments of the society that have suffered various forms of discrimination. Human dignity is considered

along with human rights to be inherent, inalienable and universal. While important dignity-related health impacts may include such problems as the poor health status of indigenous peoples, a coherent framework of human dignity violations in the field of health is lacking. A taxonomy and an epidemiology of dignity may uncover an enormous field of previously suspected yet thus far unnamed and therefore undocumented damage to physical, mental and social well-being. The relationship between scientific advances, ethics and human dignity will continue to be a focus for discussion and recommendations throughout the next few decades. As far back as 1993, the World Conference on Human Rights in Vienna noted that certain advances, notably in the biomedical and life sciences as well as in information technology, may have potentially adverse consequences for the integrity, dignity and human rights of the individuals, and called for international cooperation to ensure that human rights and dignity are fully respected in this area of universal concern.

DEVELOPMENT

Scholars have come to agree that one of the most consistently misused and abused concept in social science leading to some serious confusion as to what it really mean and stand for, is the concept of "Development". The concept has been deprived of its real meaning and lacks agreement on its meaning and purpose. However, there exists a common consensus among liberal scholars on "Development" as an all-encompassing multi-dimensional process, involving man in his political, economic, socio-cultural and psychological relations among others, in his effort to master and subjugate nations and natural forces of his environment to ensure improved living.

According to Ofoeze (2000) and to the liberal scholars, development simply means:

The attainment and qualitative realization of a state of affairs characterized by adequate and equitable distribution of social service, qualitative human happiness and welfare and mastery of his environment as well as free individual participation in the affairs of the state or simply "the satisfaction of basic needs in an economically, politically and structurally transformed society".

GOOD GOVERNANCE

The concept of good governance has been treated by some scholars and governments of certain nations with caution because of the way it emerged and used in the international development literature. Generally, it has been used in the development literature to describe the way institutions of governance manage

public resources in order to ensure that the general well-being of citizens is guaranteed and with respect for human rights, dignity and rule of law. But also, the concept has been with viable economic profiles and political bodies, treating those of the liberal states of Europe and the Americas as the most successful because they are said to be more effective in promoting viable economics and in ensuring respect for human rights (Ibodji, 2012).

Again, for Ibodje (2012), good governance is one that is characterized by accountability in the management of public resources, rule of law in the conduct of public affairs, predictability of institutional performance and behavior, justice and equity and effectiveness in the management of economy. These characteristics of good governance are also the elements constituting the environments for economic development. Here comes the problem of national development in Nigeria, which environment has not encouraged the flourishing of the above elements of good governance. Accountability is zero, as public resources are steadily stolen by public officials with the apparent connivance of chief executives. The rule of law has become a play for protecting the good boys and children of executives and ruling party leaders of their principals. Justice is scarce for the ordinary people as the nation's courts are more or less collection of executive instruments without a judiciary as a separate arm of government. What then is the prospect for good governance as a necessary tool for development engineering in Nigeria?.

To operationalize the concept of good governance, Onyishi (2009) lists its universal elements viz: respect for rule of law, civil liberties and fundamental human rights, electoral legitimacy, accountability and transparency; development oriented leadership, efficiency, demilitarization of political authorities and broad civil society participation in decision making etc. Good governance whether in public or corporate organizations, further entails cooperative action and integration of all members of the organization in decision making process (Nwagboso, 2009).

Lending credence to Onyishi's universal elements of good governance, Osioma (2012) posits that good governance is a process by which public institutions conduct public affairs, manage public resources and guarantee sustainable human development in an atmosphere of due process and rule of law, free from abuse and corruption. For him, the true test of "good governance" is the degree to which it delivers on the promises of human rights, civil, cultural, economic, political and social rights.

THEORETICAL FRAME WORK

This paper is anchored on Frustration-Aggression Theory. The Frustration-Aggression Theory had given leeway to explaining a more sophisticated scientific understanding of organizational conflicts in societies. The basic assumption of this theory is that all aggression, personal or interpersonal has its root causes hinged on frustration of one or more actor's goal or achievement. In view of this, the understanding that human needs are insatiable and supply to meet these needs has always been so little, it therefore follows that all human conflict can be traced to an actor's failure to obtain what it needs whether as an individual or group of individuals. Thus, the frustration-aggression theory rest on basic stimulus- response hypothesis.

Proponent of this theory Dollard (1939:1) agrees that aggression is always a consequence of frustration or conversely, frustration always leads to some forms of aggression. Dollard defined frustration as interference with any form of goal directed behaviour.

The relevance of this theory to issues relating to justice and human dignity in the development of Nigerian public organizations is anchored on the injustice seen in our constitution arising from the nature of federalism which undermines human dignity. This has resulted to several agitations for state creation, ethnic nationalism, Boko Haram, salary increase, promotion and other benefits for the workers in Nigerian public sector organizations.

THE DEVELOPMENT OF NIGERIAN FEDERALISM: IMPLICATION FOR JUSTICE AND GOOD GOVERNANCE

The idea of Nigerian federal structure and its fiscal federalism has been enmeshed in contradictions, controversies and crises. The issue has become a national question as socio-cultural groups; with varying ideological leaning severally demonstrate interest and concern especially on the issue of resource control. As a national question, the seriousness of Nigeria federalism has translated into question of national unity, local autonomy, self-determination and equitable distribution of resources, opportunists, rewards, and power (Anifowose et al, 2004). Meanwhile, given the rising concern endangering the peaceful co-existence of the multi-ethnic nationalities that confederated, engendering the palpable need for Nigerian nation, some Marxist scholars and/ or extremists see the Nigerian federalism as presently unworkable: given the collaborative politics of emergent socio-cultural group, thus the situation itself canvases for the dissolution of the federal union towards greater conflict.

However, in its present status, Nigerian federalism has in true federalism

advocacy, two re- structuring alternative hinged on the ethnic and class planks. Although, this section lays emphasis on these, the ethnic approach having two anti-theatrical schools, has relevance to the study because it includes ethno-relationists, who see ethnicity as a potent social mobilization force. Again, the ethnic base prescriptions are hinged on ethnic autonomy and self-determination, resource control, environmental control and preservation. Indeed, the objectives of this school are to forge the identities of various nationalities to satisfy the competing demands of region, state ethnic communities and obviate their destructive consequences; eliminate historical and political instability, truncate ethno-religious hegemony and abuse of power.

The issue of decentralization of power and fiscal resources has ranked very highly in Nigerian federalism. In fact one of the major issues in the federal structuring is the imbalance in the distribution of resource and needs among the federating units/tiers of government and has thus become sensitive to the question of fiscal federalism. As an issue in Nigeria, fiscal federalism confers on the federal national government, the function of resources allocation, distribution and stabilization of the polity.

However, in doing this national government must maintain the inter-government relations because there are bound to be spill over effect. Thus it becomes very imperative that each tier of government must be assured of stable finances with which to discharge its constitutional responsibilities. The assurance is lacking. (See the case of Lagos state government and the withdrawal of local government financial management Board).

Meanwhile in discussing Nigerian federalism, there are issues and challenges that have tended to weaken the existence of the federal structure and good governance and they include:

- a. The issue of evolving a fiscal structure that is conductive, rational and equitable for the allocation of the country resource among the different tiers and federating units.
- b. The need to evolve a strategic procedure for minimizing intergovernmental and inter-ethnic tensions and curbing of ethnic militias.
- c. Promotion of national unity through the inculcation of national consciousness for national development

The issue of minimizing inter-ethnic tensions arising from all minor and major ethnic rights in Nigeria has attracted broad based approaches, proposed especially for securing minority rights in Nigeria. One of such approaches posits the re-structuring of Nigerian federalism as presently constituted to evolve equally proposed drastic based socialist revolutionary process.

Meanwhile the second approach essentially provides political economy solution to the minority right question. The argument therefore, is that the class question will be virtually unavoidable even one ethnic based confederacy, largely because of the inevitable interface between ethnicity, class and political associations in the prevailing minority crisis/ conflict in Nigeria. Nevertheless, both approaches as presently constituted and operated; only differ in the re-structuring mode of Nigerian system (Nanens, 1992).

However, although the idea of self determination which is central to the practice of federalism may tend to be problematic at times, yet there is currently no viable political alternative to federalism for territorially fragmented and culturally heterogeneous societies. Above all, the adaptability of the federal system to engendering political stability in the state depends largely on the operating context of the system as well as attitudes and orientation of political actors within the political system.

Like all federal system, Nigeria's federalism since its adoption in 1954 has been operating in both fiscal and political contexts. The fiscal context consists of the mode of expropriation and distribution of resources while the political context relates to putting in place appropriate structures that would facilitate the self realization of component units. One basic fact is that the operation of federalism in both contexts must be designed in such a way as to avoid marked inequality among the component units in power and resource matrix. Indeed it has been noted that financial subordination of units or marked inequality between them in terms of wealth, population and land mass constitute potent destabilizing factors in federation and may make an end of federalism (Wherare, 1976).

In the fiscal context, there is no doubt that profound conflict exist among the component units of the Nigerian federation. At inception of the system, there was a large devolution of power to the regions. Equally each region enjoys considerable autonomy over its internal affairs in addition to having a regional police force and civil service. In terms of resource distribution, the principle of derivation occupied a significant place in the distribution formula. This followed recommendations of the Louis Chick Commission of 1953 which was set up to function between the centre and the regions (quoted in Elaigwu, 2005: 252). Thus derivation remained a major emphasis in federal revenue allocation between 1954 and 1999 when the military took over headship of the country,

albeit some other commissions were set up whose recommendations led to some minor modifications in the revenue sharing arrangement. However, due to a number of factors that include the military's adventure into Nigerian politics, the need to arrest the ever burgeoning power of the regions its concomitant weakness of the centre with the attendant consequence of being unable to give the country a sense of direction and above all, the seeming gradual disintegration of the federal structure, there was a gradual shift to some other forms of consideration in revenue allocation as a strategy to arrest the situation.

Beginning from 1966, therefore, the principle of derivation was greatly downplayed while other principles also become prominent. Other basis of allocation includes, population size, need and national interest. Ironically this period coincided with period of oil boom and a massive decline in the value of cocoa and other export produce from other regions at the international market. In other words, there was a twist of fortune and faith as the south eastern region, with the oil boom, gradually becomes the life wire of Nigeria's revenue generation while the northern and western regions, the major producers of groundnut and cocoa respectively, receded. Thus while the northern and western regions were indifferent to the regions to continue fully on the basis of derivation. Ever since this period, the principle of derivation in the sharing formula has continued to suffer decline under Nigeria fiscal practice while 'attempt to arrive at a national consensus on the revenue sharing formula in spite of several revenue commissions has hardly yielded any acceptable outcome (Zabadi and Gambo, 2000: 75). Ofeimun (2005) poignantly captured the fluctuating fortune of the derivation principle when he observed that from 100 percent in 1946, the Philipson commission recommended 50 percent for derivation in 1951; Hicks - Philipso recommended 50 percent, 100 percent was actually disbursed in 1953 when the Western Region Pushed for it; in 1958, however, the Riesman Commission set derivation at 50 percent; in 1960, it was 50 percent; by 1970, the regime of General Yakubu Gowon Reduced derivation share to 45 percent In 1975, derivation fell to 20 percent. The Obasanjo/ Yar' Adua administration fixed it at 25percent ... Shehu Shagari reduced it to 5 percent in 1981. under Buhari, it crashed to 1.5 percent. General Ibrahim Bahangida raised it to 3 percent It took the rise of Sara Wiwa phenomenon for consideration to be given to a 13

percent rise on the principle of derivation as proposed in the 1995 and now the 1999 constitution.

While it is instructive to note that a major reason for downplaying the principle of derivation in the allocation formula was to aver a major source of threat to the continued existence of the federation (regional preponderance) and achieve national unity, the aftermath has had great impacts on the country's stability which ab into informed the initial action.

In its structural and political context, Nigeria's federalism may be likened to a biological cell capable of dividing and reproducing itself (Dent, 1995). This is because, it has continued to witness continuous splitting of units. In 1954, it began as a federation of three regions but by 1964, it became four with the creation of the mid western region from the then western region. By 1967, the was further split into 19 states. By 1989, it became a federation of 21 states, increasing to 30 by 1991 and by 1996 it had subdivided to become a federation of 36 states. In addition, the creation of more states has always been accompanied by the creation of additional Local Governments areas. Thus, from 301 in 1976, the country currently boasts of about 774 Local Government Area Councils Implicit in the above description is that Nigeria's federal structure is predicated on a three-tier administrative structure- the federal, state and local governments. While it is not a misnomer to have, in a federation, more than two tiers of government in order to cope with the extent of diversities, the continued structural division, however, have not produced a satisfactory outcome for the component units. This is evidently so because every attempt at states and local government creation is usually followed by increase agitations for more.

It is important to also stress that, the creation of states and local government is usually seen as a legitimizing strategy of the military. But beyond this, it is for most Nigerians, a progression towards achievement of self determination. This is because, even though military government were the ones reputed for creating more states, except for the creation of the mid western region in 1964 by the Tafawa Balewa administration, states creation exercise is always preceded by agitations for it by the citizens themselves. Moreover, even under civilian administrations, there were usually agitations for states but perhaps the rudiments of constitutional requirements for creating more states often made it frustrating to embark upon. For instance, the Shehu Shagari administration (1979-1983) had received over 80 request for the creation of additional states before it was overthrown in 1983. In other words, the military, by virtue of its

penchant to disregard constitutional norms, tend to be quicker in acceding to demands for more states and local governments.

Similarly, states are important variables in federations and its utility in engendering development and political stability cannot be wished away. This as noted by scholars include, opening up new areas for development, breaking the hegemony of major ethnic groups and diffusing ethnic tension among others (Diamond, 1987; Suberu, 1996; Nwosu, 1998; Onyeoziri, 2001). However, at times, the extent to which state creation exercise satisfy these needs tend to be momentary. This is because Nigeria's experience has shown that the creation of new states from old ones automatically results in the emergence of new majorities and new minorities in the new state with the attendant claims of marginalization by the new minorities. A part from this, there was the tendency for people who hitherto belong to the same state to now see themselves as former brothers and rival within the federation. It was in order to reflect the nuances of the federation' (Nwosu, 1998:34) and give further expression to its federalism, that the federal character principle was adopted in the 1979 Nigerian Constitution as a directive principle of state policy.

Going by the wordings of the constitution, the expectation on the federal character principle was that it would pave way for a federal government that would be all-inclusive of all segments of the federation thereby assuring a stable federal polity. However, 1 lofty as the federal character provision is, there was no executive agency charged with the responsibility of -implementing it until July 2002 when the Federal Character Commission (FCC) was inaugurated. Thus, its implementation before this period by various government ministries and agencies was more or less haphazard with the consequence of a declining confidence of citizens in the principle as a means of achieving relative equity in the federation. Even till date and with the establishment of a Commission to oversee its application, there seem not to be too much hope in the whole process.

Giving the two contexts in which Nigeria's federalism has operated as discussed above and the dynamism that have characterized each context against the background of achieving one of the ends federalism-stabilization effect by reconciling opposing tendencies in a multinational state- one would be puzzled by the array of instability that come to characterized the Nigerian federation. Conceived as a condition in the political system in which the institutionalized patterns of authority breakdown and the expected compliance to political authority is replaced by violence with the intent of changing the personnel, policies or sovereignty through injury to persons or property (Elaigwu, 2000: 36), there is no doubt that the practice of federalism in Nigeria has been

punctured by political instability manifesting in the various and actual threat to its existence.

These include an agonizing 30 month civil war between 1967 and 1970; a number of ethno-regional induced coups such as January and July 1966 coups as well the failed coup attempt by Major Gideon Okar in 1990; communal clashes as between Ife and Modakeke in Osun state, Umuleri and Aguleri in Anambra state and, Ijaw and Ilaje communities in Delta state; deafening agitations for resource control especially in the minority Niger Delta: increasing wave of ethnic nationalism and ethnic militia groups (OPC, Egbesu, boys, MASOB, MEND and a host of others; the Sharia law debacle and: increasing struggle for control of the centre among others including Boko Haram in 2010). Yet, this trend has shown no sign of abating thereby casting a shadow of doubt over the adaptive capability of federalism in guaranteeing political stability in Nigeria.

FEDERALISM AND FEDERAL CHARACTER PRINCIPLE: IMPLICATION FOR JUSTICE

An understanding of the concept of federalism, its basic features and its applicability in the Nigeria contest is a sine qua non to the discussion of the principle and practice of federal character in Nigeria administration. Jordan (1978:303), defines federalism as that form of government which has two levels of authority existing side by side, in some cases sharing powers and in other case not usually several local or regional governments exist in a semi-independent relationship with a central government.

Adebayo (2002:203, says that federalism requires that the general and regional governments of a country shall be independent of each other within its sphere, and shall not be a subordinate to one another but co-ordinate with each other. Neither history nor politics nor economics has given cause of "federalism" in Nigeria a smooth ride.

However, a lot depends on what one means by the plain word "federalism". Federalism can be understood, as that form of government where the component units of a political organization participate in sharing powers and functions in a cooperative manner through the combined forces of ethnic pluralism and cultural diversity, among others, which tend to pull their people apart.

Nigeria is a federation with 36: States and 774 local governments, existing in a coordinate and autonomous relationship. Powers are shared among the federating units that makes up the federation i.e. federal, state and local governments and each unit has its own autonomous power within its area of

jurisdiction usually the federal government has a greater bound of unity with power in the center. However the sharing of power between the center and the component units is in accordance with the constitutional provisions,

The federal constitution of Nigeria, defined closely the allocation of legislative and executive powers between the levels of government: given references to section 4 of the 1999 Federal constitution of Nigeria. The constitution provides three lists, the exclusive list, the concurrent list and the residual list. The exclusive list contained twenty-nine provisions on which the federal government only could legislate. The concurrent list provided for both the federal and state governments to legislate, but with the provision that, in the event of any inconsistency in the legislation of the government, federal law will remain supreme. Thus, all subjects or matters not mentioned in the two lists fell to the local government to legislate.

More so, the Nigerian federal structure made provision for bicameral legislature i.e. two chamber system, House of representatives and the senate, a ministerial executive system who are directly responsible to the president for political conduct, a judicial system with provision for appeals to federal supreme court, a public service with it's own commission, and overall, a head of government (president) whose duties are spelt out in the constitution.

Ogunna (1999) identifies the federal character principle as a product of the federal system in Nigeria. The constitution of the Federal Republic of Nigeria 1979, section 14 (3), says thus: The composition of the government of the federation or any of its agencies 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 command 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 any of its agencies.

The tragic history of Nigeria's first republic greatly influenced the perceptions and attitudes of the constitution drafting committee (CDC), inaugurated by the late General Murtala Mohammed on the 18th of October, 1975. In an attempt therefore to promote national unity and integration, the committee proposed the adoption of what is termed federal character principle which according to the framers of the 1979 federal constitution is anchored on the distinctive desire of the people of Nigeria to promote national unity, foster national loyalty and give every citizen of Nigeria sense of belonging to the nation notwithstanding the diversities of ethnic origin, culture, language or religion which may exist and which is their desire to nourish and harness to the enrichment of the federal republic of Nigeria (Ogunna, 1999:256).

According to Ogunna (1999), the federal character principle as enshrined in the constitution demands that "all appointments, allocation of amenities and benefits at the federal, state and local governments and their agencies should have a national spread". This is to say that all appointment and allocation of amenities should reflect proportionately the diverse composition of the federal, state and local government respectively. This ensures that no one, in the country dominates the other in appointments and distribution of amenities as to endanger the unity of the federation.

Agreeably perhaps, the federal character principle was conceived to foster a sense of belonging and participation by the multi ethnic groups and political interest in the governance of post-colonial Nigeria. It was the result of the years of domination that characterize ethno-regional relation Nigeria. Since the creation of states to twelve and further to nineteen states structure could not truly address the problem of North-South imbalance, the need for other methods of achieving the much desired unity arose. One can say that in terms of distribution of political post among the ethnic groups, the federal character principle is a form of representative bureaucracy of the pre-independence Nigeria.

Inherent in the 1979 constitutional provisions include section 15 (4) which expects a fostering of a feeling of belonging and of involvement among the various people of the federation, section 135 (3) stipulates that at least one indigene of each state of the federation should be considered by the president in ministerial appointments. Moreover, Section 157 provides that:

"appointment by the President into the offices of the Secretary to the Government of the Federation, Head of Service of the Federation, Ambassadors, or the Principal Representatives abroad, Permanent Secretary or other Chief Executive in any Ministry or Department of the Federal Government, or any office on the Personal Staff of the President, shall have regard to the Federal Character of Nigeria and the need to promote national unity".

Section 197 (2) Provides that "the composition of the officer corps and other ranks of the Armed forces of the Federation shall reflect the Federal Character of Nigeria". Various other provisions were made in the Constitution to ensure that the federal Character Principle was operative in the political process (Nnoli, 1996).

Thus, the Federal Character Commission is one of the fourteen independent Federal Executive Bodies established by section 153 (1) of the 1999 Constitution. However, its actual existence pre-dates that Constitution by three

years having been set up by Federal Character Commission establishment Decree No. 34 of 1996 ("the Enabling Act"). This Act was a direct result of the recommendations of the 1994/95 Constitutional Conference earlier referred to

The Federal Character Principle, which has been enshrined in Nigeria's Constitution since 1979, seeks to ensure that appointment to Public Service Institutions fairly reflect the linguistic, ethnic, religious, and geographic diversity of the country. Application of the principle in Nigeria's Public Service, has amounted to a confused balancing of the merit principle and the quota system, based essentially on states of origin. This has had adverse consequences for both institutions in terms of discipline, morale, and overall efficiency and effectiveness.

However, despite the entrenchment of the provision of the concept in the Constitution, it has been said to have been misused and continued to be abused. The common argument against the introduction of the concept into the Nigerian political life is that the concept appears to engender mediocrity at the expense of merit. The clear manifestation of the problems associated with the practice of Federal Character led to the establishment of the federal character commission to ensure its enforcement.

JUSTICE AND HUMAN DIGNITY IN NIGERIA: IMPLICATIONS FOR THE DEVELOPMENT OF PUBLIC SERVICE AND GOOD GOVERNANCE

A broader philosophical context in the concept of justice in both its contemporary and historical forms, is the issue of impartiality. Many people believe they have more important duties to family members, friends and compatriots than to strangers and foreigners. But are they right to endorse such partiality? Thinkers including the utilitarian anarchist William Godwin, have argued that everyone has an impartial duty to do the most good he or she can, without preference for any one human being over another. Thus this negates the idea of Justice especial the face of service delivery. Political philosophers' interest in justice focused almost exclusively on domestic issues: how should states treat their subjects, and what do fellow-citizens owe one another? Justice in relations between states, and between individuals across state borders, was put aside as a secondary issue or left to international relations theorists.

Since the First World War, however, the state system has been transformed by

globalization and by the creation of supranational political and economic institutions such as the League of Nations, the United Nations, and the World Bank. Over the same period, and especially since the 1970s, global justice became an important issue in political philosophy. In the contemporary global justice debate, the general issue of impartiality centers on the moral significance of borders and of shared citizenship. Realists, particularists, nationalists, members of the society of states tradition, and cosmopolitans take contesting positions in response to these problems. Because interconnectedness between peoples and geo-cultural domains is becoming increasingly common. Justice is central to human dignity, individual geo-cultural triumph, and overall well-being of human civilization. Thus, according to AI-Rodhan, meeting the minimum criteria of global justice is a prerequisite to the triumph of human civilization.

According to Henry (2002: 404):

The reasoning is that, because of cultural bias in testing, lack of educational opportunity, and general social prejudice, government owes those people who have suffered these injustices a special chance to get ahead. If this should entail some bending of the civil service regulations then so be it

Such diversity policies as "Equal Opportunity Act" in the United States, "Federal Character Principle" in Nigeria, are informed by this line of thought. But there are others who are opposed to "lowering of standards". They contend that "governmental economy, efficiency, effectiveness and responsiveness will deteriorate to the detriment of us all.

unless only the top applicants are hired" (Henry, 2002: 404). The justice theory would by the inheritability of its logic, argue for the hiring of "less qualified" applicants from disadvantaged groups in society on the following grounds:

- (1) Not hiring them would be further depriving society's most deprived groups for the sake of the whole society.
- (2) Hiring them would facilitate the full realization of their basic liberty" (or personal dignity) without encroaching on the basic liberty of others.
- (3) Hiring them helps assure that all positions and offices are open to all
- (4) Hiring them helps assure that privileges innate to such offices continue to work toward the advantage of all in a reasonably equal way, because the privileges and positions are being extended to the least well-off in society (Henry, 2002: 404).

Justice enhances security, because injustice can lead to feelings of anger,

humiliation and alienation, which can undermine human dignity. AI-Rodhan argues that humans are primarily driven by emotional self-interest and that protecting humans' emotional needs is fundamental to human well-being and human dignity. When people feel that they have been the victim of unjust decisions, they may try seek justice by less conventional means such as violence. This, in turn, can promote insecurity. Therefore, justice and not just military power, is essential to maintaining global security. Some obstacles might however arise. AI-Rodhan identifies the disparity in power that exists between states in the current global order as a major obstacle in achieving justice. Calls for greater global justice

Thus, Good governance conjures the presence of a transformation leader orienting transformers in the making, who is genuinely interested in the service of the citizenry, with the ability to create vision, inspire and motivate led through consistent, persistent and focused guidance, empower individuals to achieve results greater than they ever imagine. A leader who will fundamentally alter the parameters of the status quo through providing a, vision for the future and then investing the time and effort in having others share that vision.... (Osisioma, 2011).

JUSTICE IN NIGERIAN PUBLIC SERVICE ORGANIZATIONS

It is imperative to observe here that Nigerian federal system is comprised of both public and private sector organizations and the development of both, implicate the general development of Nigerian system. However, the development of the public service system in Nigeria is fraught with serious challenges. Scholars in the' public service disciplines like Okolie (1985), Ikejiani Clark (1992), Emezie (1996), Okpata (2005) and Ezeani (2006), had enunciated these challenges of public bureaucracy to include:

- ✓ inherited colonial bureaucratization
- ✓ sala model of administration
- ✓ primordial loyalty of individuals and kingship ties,
- ✓ fused administrative system
- ✓ inadequate management training and education among our public bureaucrats
- ✓ lack of requisite skills and competencies of effective management performances
- ✓ inordinate ambition and quest to get rich quick
- ✓ political and economic structures controlled by neo-colonial force,
- ✓ collapse of social services occasioned by poor attitude to public

utilities and

✓ low capacity utilization of industries and public bureaucracies.

There are a lot of infringements of rules, violation of general orders by public servants and top political office holders with impunity and in most cases, without bringing such offenders to face the wrath of the law. Enforcement of laws/ rules in Nigerian is not all embracive, but partial and selective because some public officers appear to be considered as sacred cows. For example, sometimes in the 1990s, certain erstwhile military leaders in Nigeria, refused to appear before Justice Oputa panel to answer for certain corrupt practices alleged against them during their tenure in their military regimes. Is on record till today, that such military juntas never cared to respond to the call of the law of the land and noting has happened to them. Most of such military juntas are seriously seeking Nigerian mandates to rule us again as civilian Presidents. What an injustice!

In the recent times, EFCC web has caught up with many public office holders because of fraud and corruption, yet noting tangible came out of it. Most recently, the amnesty granted to the ex-governor of Bayelsa state is a case of sacred cow syndrome, raising serious dust in the selective enforcement of law and rules in Nigeria. Umaru Dikko, looted Nigerian treasury in the second republic and went away unscorched, when he came back in the wake of the aborted third republic, he was given a heroic welcome. Some criminals and political bandits who looted our wealth at various times in this country, were given selective state pardon at different times. This, indeed is injustice in law enforcement.

Apart from the judicial amnesty granted to prison inmates annually or periodically by both the president, Governors and Chief judges, other indiscriminate pardons granted to some offenders and criminals, call to mind, very serious questions on enforcement of law and order in Nigeria. Today in relation to the amnesty granted the Niger-Delta militants in 2009, the Emirs in the North and the political big wigs of Northern Nigeria, are on President Good Luck Jonathan to grant same amnesty to the Islamic fundamentalist, called the Boko Haram sect that has been ravaging both the government and the good people of Nigeria, wasting lives in their thousands since 2009. This type of amnesty is not justifiable in a system with rule of law.

JUSTICE IN RULE ENFORCEMENT AND ORDER

At different times in history, rules are made to guide human conduct in societ) and a particular arm of government has always been in-charge of enforcing compliance. The challenge always associated with enforcement of

these rules is the issue of having the political will to enforce them without partiality or bias upon defaulting. Effective law enforcement can be seen as a corollary to good governance because it is tied to the application of rule of law, however, bias, partiality, selectivity in law enforcement have undermined the philosophy of rules in the governance of every state.

According to Platonian thesis in his concept of Justice, nature has categorized men in society and if every man accepts and operates at the position of his natural endowment, justice is ensured, as men will enjoy robust living together and law enforcement will not be cumbersome. The problem is therefore that of injustice since no man wants to be where nature has positioned him/ her hence the problem of instability, insecurity, coup d'etat, dispossession and deprivation of lives and property, court litigations, abuse of human rights and dignity etc. In the wake of these social malaise.

Rules or laws are made to stem the tide of socio-economic and political injustices in political system. In a bid to enforce rules to enhance good living as well as good governance, infringement is likely to occur on the fundamental rights of the citizenry.

Law enforcement is necessary in good governance, without which a given society returns back to the natural state of anarchy. However, the mode of law enforcement in any system, forecloses justice or good governance. The Nigerian society has the problem of law enforcement, and that is why there is no order in our polity and government.

CONCLUSION

The work attempted to uncover the critical issues involved in the development of Nigerian federal system. The development profile of Nigeria is generally low when matched with social indicators. There is general agreement on the imperative of good governance as a panacea to national development. Indeed, our orientation towards governance should anchor on democratic values of transparency, institutional development, social welfare and security of life and property, increase food production, poverty reduction as well as commitment to infrastructural facilities in the rural communities and urban centres. The nature of Nigerian state and the status of the nation's institutions, require a restructuring in order to promote accountability as a necessary condition for effective public resource management that will navigate national development engineering in Nigeria.

The paper concludes that the trace of injustice in Nigerian federal structure has resulted to several agitations for state creation, revenue generation

and control, strife for equal participation of all in the management of our common wealth, unemployment, political instability, faulty electoral system and process, bloated bureaucratic corruption, faulty institutional framework, weak state, state of insecurity, increase crime wave and the development of ethnic militias in the likes of Niger-Delta, MASSOB and the Boko Haram insurgency etc; and that the application of the federal character principle in Nigeria public sector organizations has significant effect to human dignity as it has enthroned mediocrity at the expense of meritocracy and professionalism.

RECOMMENDATIONS

Having unveiled the issues involved in the development of Nigerian federal system and cases of injustice, the paper therefore, recommends that:

1. Our quest for wealth at the expense of public good should be de-emphasized, greed and avarice which manifest in bloated corruption by public office holders and upsurge of bureaucratic corruption of both public and private sectors and the modern beatification of wrong values be properly reversed.
2. The flagrant abuse of guiding rules especially by the sacred cows of Nigeria and the unwarranted appeal for the amnesty of the blood batch Boko Haramists should be discontinued by whosoever is invoked and insecurity in our social system in recent times by various ethnic/tribal and regional groups be handled with dispatch as genuine issues of marginalization be assuaged in the heart of the affected group(s).
3. A redesigning/federalism restructuring for good governance; an unwavering autonomy of all the ethnic states for a new national, political, economic and social order.
4. There is need to grant resource control rights to the lower tiers of government.
5. Since Niger Delta, MASSOB and Boko Haram was granted amnesty. Uwazuruike should also be granted amnesty and federal government should play Justice and rule of law in his case.
6. Government at all times should be prepared to demonstrate the political will to enforce as well as implement policy reforms and be seen to be justiciable in law enforcement no matter whose ox is got.
7. There should be strict adherence to the classical features of ideal bureaucrac) in the management of public service organizations
8. Adoption of a functional public service reform that shall' be effective, functional, sensitive as well as responsive to public needs and ensures prompt

achievement of public objectives.

9. Government should be concerned on the welfare of workers in order to enhance their performance and reduce bloated bureaucratic corruption and develop the political will to implement reforms and punish offenders in line with the rule of law.

References

Adebayo, A (2002) *Principles and Practice of Public Administration in Nigeria* Ibadan: Spectrum Books limited

Allen, B. (2004) *Justice; Legitimacy, and Self-determination: Moral Foundations for International Law*. Oxford. Oxford University Press:

Anifowose, R. (1982), *Violence and Politics in Nigeria: The Yoruba and TIV Experience*. New York: Nok Publisher.

Awa, E. O. (1976), *Issues in Federalism. Benin City: Ethiope Publishing Corporation*.

Dale, J. (2005) *Adaptation, Mitigation, and Justice Perspectives on Climate Change: Science, Economics, Politics, Ethics*. Walter Sinnott -- Armstrong and Richard Howarth (eds). *Advances in the Economics of Environmental Resources*. New York. Elsevier

Dennis, F.T (1999) Democratic Theory and Global Society, *Journal of Political Philosophy* 7 (2) 111-125.

Dent, M. (1995) *Ethnicity and Territorial Politics in Nigeria in Smith. G. (ed.) Federalism: The multiethnic Challenge*. New York: Longman.

Ezeani, E. O. (2006) Ezeani; E.O (2006) *Fundamentals of Public Administration*. Enugu. Snaap Press Ltd.

Elaigwu, J: I. (2005), *The Politics of Federalism in Nigeria*. Jos- Nigeria: Ayaotu Publishers

Elaigwu, J. 1(2000) *Federalism, Institutional and Political Stability in the Context of Vision 2010*. *African Journal of Federal Studies*. 1(1) 34-64.

Elaigwu R.A and Isawa. J. (1992), *Foundation of Nigeria Federalism; A*

publication of Institute of Governance and social research (IGSR) Jos, Nigeria.

Gillian, B (2005). Egalitarianism, Ideals, and Cosmopolitan Justice. *The Philosophical Forum*. .36(1) 1-30.

Ibodje, S.W. E (2012) *National Development in Nigeria; The Problem of Good Governance*. A keynote Address presented at the Third National Conference of the School of Business Management Technology, Abia State polytechnic, Aba. November, 2012.

Mullins, J, Laurice (1999). *Management and Organization Behaviour Sixth Edition*. London: Pitman Publishing.

Muhammad, A. A. (2007) Federalism and Political Stability in Nigerian: Current Peril and Future Hopes. *Journal of Sustainable Development in Africa*. 9 (4) 187-210.

Nayeef, A. R (2009) *Sustainable History and the Dignity of Man: A Philosophy of History and Civilization Triumph*, LIT.

Nwosu, N. I. (1998), 'The Military and Constitutional Engineering in Nigeria' *Horn Journal of Business and Social Sciences*. (5) I. 31-49

Rawls, J (1999) *The Law of Peoples*. Cambridge, Mass: Harvard University Press.

Richard, M (1998) Cosmopolitan Respect and Patriotic Concern. *Philosophy and Public Affairs*. Vol. 27 (3). 202 -224

Okpata, F.O (2013) *Good Governance and Enforcement of Rules in Nigeria's National Development*. Being a Paper Presented at the Nigerian Institute of Management. Ebonyi State Chapter, During Her 2013 NIM Annual Lecture at Abakaliki for Her Members 9th April, 2013.

Osisoma, B.C (2011) *Transformation for National Development*. Lagos: ANA Publishers

Osisoma, B.C (2012) *National Transformation Beyond Rhetoric*. A Development Agenda. A Paper Presented at the Annual Conference of Faculty of Management Sciences, Ebonyi State University, Abakaliki.

- Onyishi, T. O (2009) *Accountability, Transparency and Good Governance in Contemporary Nigeria*. Nigerian Journal of Politics and Awka: Pace Research Institute
- Ofeimun, O. (2005) *Resource Control and Beyond*. The Guardian. Lagos, July 17
- Ofoeze, H.GA (2000) *Politics of Economic Development Planning in Nigeria. Polks and Contending Issues in Nigerian National Development Strategy*. Enugu: John Jacobs' Classic Publishers.
- Onyeoxiri, F. (2002), *Alternative Policy Options for Managing the National Question in Nigeria*.-Ibadan: John Archers (Publishers) Limited for PEFS
- Oguna, A. E. (1999), *Public Administration in Nigeria: Theory and Practice*; Owerri: Great versatile publishers Ltd.
- Okpata, F.O. (2004) *Public Administration, Theory and Practice*. Enugu ChestonAgency.
- Okpata, F.O. (2008) Politics of Federal Restructuring and the Development of Nigerian Federalism: *Nigerian Journal of Sociology*, Vol 2 (2) EBSU
- Okpata, F. O and Nwali, T. B (2012) *Public Sector Administration in Nigeria: Approaches in Labour management and Intergovernmental Relations*. Abakaliki. De Oasis Communications and Publishers.
- Okpata, F. O and Ukeje, I. O (2010) Democratization of Public Bureaucracy in Nigeria. The Federal Character Principle Experiment. *International Journal of Social Sciences and Humanities Review*. 2 (1) 1-17
- Olugbile, F. (1997) *Nigeria at work. A Survey of the psychology of work Among Nigerians*. Lagos, Nigeria: Malthouse Press limited, Nigeria.
- Peter, B (1986) *The Dynamics of Bureaucracy*. University of Chicago press, Chicago
- Shaibu, S.T. (2003) *Public Finance: An Indepth Analysis of Fiscal & Monetary Theories & Policies*. Enugu. John's Classic Publishers Ltd.

Simmel, G (1997) *Conflict. Translated by Kurt h. Wolff*. New York: The Free Press.

Suberu, R. T. (1996). *Ethnic Minority Conflicts and Governance in Nigeria* Ibadan Spectrum Books Limited and IFRA

Sofer, C (1973) *Organizations in Theory and practice*. London: Heinemann Educational Books.

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

Weber, Max. (1946) *Essays in Sociology*. Translated by H. H. Gerth and C.W. Mills. New York: Oxford University Press.

Webster's third International Dictionary.(1971).Webster Dictionaries. Publishers in the Merriam.

Zabadi, I. S. and Gambo, A. N (2000) Federalism and National Security in Nigerian *African Journal of Federal studies*. 1 (1)65-81

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