

Fiscal Federalism and Resource Control in Nigeria

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Abstract: *Fiscal federalism has occupied the front burner of political discourse in Nigeria, since the return to civilian rule. The oil producing states of Niger delta region have been very vocal in their agitations for restructuring of the parameters for sharing the wealth of the nation which is located within their domain. Other southern states joined the agitations for resource control, which is believed would make more resources available to the various states to ensure development. The agitations have arisen because a larger portion of the national wealth is allocated to the federal government at the detriment of the oil producing states. The paper examined the genesis of fiscal centralization and decentralization. It also explored the various arguments for and against the two positions; the politics that underscore these positions as well as the various suggestions proffered to resolve the quagmire. We argue that while the framework for resolving the contentious issues have been laid, no meaningful attempt has been made by the federal government to effect change in the status quo. There has not been any constitutional amendment to the operations of Nigeria's federalism with the federal government seeing it as a non-negotiable area. The agitations for resource control will continue as long as the federal government does not allow for sufficient economic empowerment to guarantee auto-centric development in the component units. The federal government should take urgent steps to ensure true fiscal federalism in the country.*

Keywords: *Allocation, Control, Federalism, Fiscal and Resource.*

I. Introduction

Fiscal federalism or decentralization debate in the country has been the focus of public discourse for several years now. It is an issue that has for the first time in the history of Nigeria forced the Southern people (South-South, South-East and now South-West), to unite to 'fight' for a common cause. The practice of federalism and resource control formed the focal at the 1957 Constitutional Conference in London and the 1958 Conference that led to the enactment of the 1960 Independence and 1963 Republican Constitutions. The 1960 Independence and the 1963 Republican Constitutions respectively enshrined some fundamental principles of fiscal federalism and resource control in view of the level of deprivation percentage accruable regions. In the course of the nation's political evolution, these constitutions were either suspended or repealed by the ruling military regimes and the country tilted towards what looks like a unitary system but a very strong Federal Government. With the return of democratic governance and the contending developmental problems that the Niger Delta region had successively experienced, there has been a spontaneous call for the institutionalization of resource control and true federalism.

Defined as the control and management of resources by states and local governments from whose jurisdictions the resources are extracted, all federal states and local governments from whose jurisdictions the resources are extracted, all federal states, from the Australia, Brazil, Canada, Ethiopia, Germany, India, Malaysia, Switzerland and United States of America have it enshrined in their constitutions. For instance, under the Canadian constitution, the provinces and federal government legislate on natural resources in which the provinces have substantial control over their own natural resources. In the US, states have power over their resources and are subject only to federal taxes and laws on strategic resources.

Financial subordination makes mockery of federalism irrespective of how carefully the legal forms may be preserved. The states should not permanently remain dependent on the federal government for survival. In view of the relationship of the subject to Nigeria's continuous existence as indivisible entity, it has become necessary to undertake a comprehensive study of the subject from an historical perspective. The 1960 Independence and 1963 Republican constitutions not only granted greater fiscal autonomy to the regions, but also empowered them to compete with one another. This phenomenon has generally been misunderstood. The advocacy for resource control does not seek the exclusive control and ownership of mineral and other resources by the states. This advocacy is built upon the philosophy of justice that the federating states should have a deeper stake in the exploration and exploitation of mineral resources located within their territories.

The 36 that together with the Federal Capital Territory make up the federation today have been reduced to beggars, because of their representative gathering every month at Abuja for monthly federal allocations. Only two states – Lagos and Rivers – can pay their workers without the federal intervention. Odje (2000) succinctly

considers the twin concepts of true federalism and resource control. For him, the two concepts mutually complement each other. A true federal state practices resource control while resource control functions vibrantly in a true federal state. Hence, with its wide diversities in ethnicity, cultures, languages and faiths, only a true Nigerian federation or a confederation offers any chance of success as a sustainable polity in a changing world.

This paper is structured into six parts, namely the abstract, introduction, conceptual nature of Nigeria's federalism, agitations for resource control in Nigeria, fiscal federalism and revenue allocation in Nigeria, conclusion and recommendation.

II. Conceptual Nature Of Nigeria's Federalism

It has been severally discussed and agreed that contemporary federalism seems to have started with Wheare (1953) who refers to federalism as a constitutional arrangement which divides the lawmaking powers and functions between two levels of government in such a way that each within its respective spheres of jurisdiction and competence, is independent and coordinate. This constitutional form is brought about by situations, where people are ready to give up only certain limited powers and wish to retain other limited powers to be exercised by coordinated authorities. He notes that coordinate supremacy of all the levels of government with regard to their respective functions remains a cardinal principle of federalism. This means that federalism has emerged as a particular kind of functional arrangement between states for living and working together nationally while presenting a measure of separate identity. (Wheare, 1953).

Babawale (1998) writes that a federal state is one in which there is an: Explicit and constitutional demarcation of powers and functions among national and sub-national units. Moreover, the powers and responsibilities are distributed in such a manner as to protect the existence of authority of both levels of polity each of which is independent within its own sphere ... federalism refers to the doctrine which advocates and promotes the form of organization of a state in which power is dispersed or decentralized by contract as a means of safeguarding local identities and individual liberties (Babawale, 1998: 92). He further states that federalism describes not only the structure of a state; it also designates its political culture and political process. An important characteristic, which distinguishes federal system from non-federal systems, is non-centralization of power. For in a federal polity, there is division of power between the central and component units. It is pertinent to note that in Nigeria's federal experience, the reasoning propounded by Wheare (1953) and Babawale (1958) does not hold in practice. This is because the Federal Government has usurped virtually all the powers, which were formerly exercised by the state governments.

Akindele (1995: 138) defines a federal state as "a political entity or country where powers and indispensable decisions are exercised and made at two or multilateral levels of government in accordance with the strict mutually-agreed constitutional provisions of the country concerned". It could be argued that these positions formed the basis of the claim that "federalism is anchored on considerable tolerance of diversity and willingness to take political action through conciliation tolerance of diversity and willingness to take political action through conciliation even when the power to act unilaterally is available (Ebegbulem, 2011).

Wheare (1953) adopts United State of America as the model federal state. Following his preferences for American style federalism, he chose to call other constitutions that do not make the component units autonomous as quasi-federal states. For example, Wheare's concept of federalism regards the pre-1966 Nigerian constitution as quasi-federal because section 66 allowed the Federal Government to declare a state of emergency on any region and to take over the running of the government of that region for a specific period of time. Ekpo and Enamidem (2003) equally observed that "protagonists of resource control began to push forward the argument that the country cannot be said to be a federation when the elements of federalism are lacking – elements such as – state police, control of natural resources by the federating unit". Although, Nigeria is supposed to be a federation, nothing in its structure and administration lends credence to this claim. Ekpo and Enamidem (2003) further asserts that the manifestation semblance of a federation in Nigeria is merely the 36 states – otherwise the country is to all intents and purposes – a unitary state. The government at the centre is stronger than the states, with latter depending mostly on allocations from the former for survival.

According to Ndu (2003) and cited by J.C. Ebegbulem (2011), two salient reasons could be adduced for the erosion of true federalism that characterized the Nigerian nation in the First Republic before the onslaught of the military in 1966. One of the reasons he gave us was the collapse of the first republic when the military intervened in January 1966. The intervention by the military marked the end of true federalism in Nigeria. The visionary development of federalism specifically from 1954 to 1965 abruptly ended with the mutiny of January 15, 1966, which not only eliminated some of the founding fathers of federalism in Nigeria, but also killed the essence of federalism itself through a coup d'etat. Though Nigerian has remained a federation, it has not been able to build on the dreams of the founding fathers to go forward into a truly federal entity in the mode of the United States of America

Ndu (2003) writes that two interrelated developments accounted for the abortion of the evolution of the Nigerian federal state. First, the coup and the eventual threat to the unity of the country following secession and

the civil war were traumatic events that called for centralized authority capable of pulling things back into one fold. Secondly, there was, and still has always been the professional practice of unified command with which soldiers are familiar. He sees the centralized federalism in Nigeria today as one of the disruptive heritage of military rule in Nigeria. The second reason he puts forward is that true federalism is still a mirage in Nigeria because most states in Nigeria are feeble, particularly in their executive capability and, consequently can hardly perform as federating units. He argued that states are feeble not because they lack the resources and manpower that would make them strong economically and administratively, but “the fiscal and legislative relationships between them and the federal government render them feeble” (Ndu 2003: 96).

III. Agitations For Resource Control In Nigeria

Advocates of resource control have argued that in any true federalism, powers are shared between the federating units and the central government in such a way that each government has its own apparatus for the conduct of its own affairs. It is argued in any true federalism, the oil, gas or any other mineral found in state belongs to the state. They maintained that the fact that the areas that the national wealth are the poorest in the country is unfair. The conditions of these areas and their people is aptly captured by Duru (1999), when he observed that; “Foremost is that although the bulk of crude oil, the county’s main source of revenue is derived from their land, they belong to the ranks of the most marginalized groups in the country. Another is that several years of exploration and hazards of spillage and gas flaring which accompany it have degraded their environment and left the communities desolate. Not only have farming and fishing, the major occupations of these mostly riverine minorities been decimated, their territories have continuously lacked basic infrastructure and amenities like electricity, roads, schools, hospitals, portable water ...” (Duru, 1999: 54).

The fact is that resource control is meant for the diversification and revamping of the solid minerals sector which has been neglected over the years. To this end, the belief is that the practice of resource control will improve the pace of economic development of the whole country in general and particularly make the respective states to identify their comparative advantages which best serves the country. The overdependence on oil has resulted in the abandonment of the solid mineral sector by promoting the activities of illegal miners. However, as succinct as the points raised by the advocates for resources control, mostly from the south, their northern counterparts have on the other hand consistently seem to be working against this agitation.

The history of the Niger Delta is dominated by agitation for resource control. First, after the abolition of slave trade in 1807, local traders engaged in ‘resource control’ struggles to participate actively in the trade in oil palm (Ako and Okonmah, 2009). Similarly, resource control was one of the highlights of the Ijaws’ representation to the Willink Commission to Enquire into the Fears of the Minorities and the Means of Allaying Them in 1957. Resource control struggles in the post-crude era that began with the botched Boro-led attempt to create the Niger Delta Republic in 1996 has culminated in contemporary oil-related restiveness in the region (Ako, 2011). Since the Ijaw representatives were unsuccessful to achieve their desired results to be left out of independent Nigeria, or, alternatively have a state created subsequent ‘resource control’ struggles have suffered a similar fate. However, the Ijaw’s argument that the peculiar problems of those living in the creeks and swamps if the delta were not understood and indeed were deliberately neglected by both the region and Federal Governments remains true till date and feeds into the resource control struggle.

The contemporary notions of resource control have been characterized by both peaceful and violent activities. While the period when the Ogoni’s were at the forefront of the struggle was largely peaceful, the recent shift of focus to the Ijaw’s witnessed an escalation in military and violence. The response of the federal government has typically included the creation of development boards, state creation, pacifications (Ukeje, 2011) and more recently, the amnesty initiative. The relative peace in the region and consequent increase in oil production figures is touted as evidence of the success of the amnesty initiative by the Federal Government. Basking in the euphoria of allegedly curbing the consequences of the malaise, the federal government has neglected to resolve the underlying issues that instigated and or exacerbated the agitation for resource control and resultant restiveness in the region. Thus, while the government is spending billions of naira in stipend payments as well as educational and vocational training for (ex) militants, it has not vested any meaningful resources to remedy the root causes of the agitation for resource control. In a sense, the agitation for resource control has not recorded any meaningful success.

IV. Fiscal Federalism And Revenue Allocation In Nigeria

Federalism has been described earlier as the series of legal and administrative relationships among units of government possessing varying degrees of real authority and jurisdiction autonomy. Fiscal federalism, according to Nyong (1999) “is concerned with the relationship among the various levels of government with respect to the allocation of national revenue and the assignment of functions and tax powers to the constituent units in a federation”. He went further to assert that “perhaps, the most important issue in fiscal federalism is revenue allocation formula, the sharing of national revenue among the various tiers of government (vertical

revenue sharing) as well as the distribution of revenue among states (horizontal revenue allocation). A cardinal principle and essential ingredient of federalism is that no level of government is subordinate one to another, though there should be a coordinating central government for this exercise. According to Vincent (2001), the concept of fiscal federalism was first introduced in Nigeria in 1946, following the adoption of the Richards constitution. The period 1947 to 1952 marked the beginning of the recognition of sub-national governments during which financial responsibilities were devolved to the three regions, North, West and East. In 1966, the era of military rule began in Nigeria while twelve states were created in 1967.

The emergence of Nigerian federalism is not without challenges. As observed by Nwabueze (1982), the greatest problem of federalism in Nigeria today is the lack of proper understanding among the leaders and the general public of the nature of federal relationship as manifested between the federal and the state governments. He noted that in the Nigerian experience, the independence of each tier of government is misconstrued to translate to competition and confrontation with each other and in the process, unhealthy competitions sets in. This mutual suspicious has been setback to Nigeria's national development. Nwabueze (1982) further states that the six different principles involved in his definition of federalism are: separateness and independence of each government; mutual non-interference of inter-governmental immunities; equality between the region or state governments; ascertaining the number of regional or state governments which a Federal Government can meaningfully co-exists; mode for the division of powers and the supremacy of the constitution. According to him, the federally collected revenue is the mainstay of the finances of most state governments, which accounts for over 90 per cent of the total revenue.

Fiscal federalism debate that dominated public discourse in a couple of years was two dimensions namely: the centripetal forces and the centrifugal forces. Advocates of centripetal forces were of the opinion that the Federal Government should be in control of all mineral resources throughout the country based on the following premises – That shortly after the amalgamation in 1914, “the next thing that followed was the enactment of the mineral ordinance of 1914 which vested all minerals in Nigeria crown, not in Nigeria for Nigerians” (Akinjide, 2001: 36). What it means is that the British government simply handed over the control of all these minerals to the Federal Government of Nigeria. It should be noted that self-government had earlier been given to the regions; West in 1957, East in 1958 and North in 1959. These self-governments never had power over the minerals located in their areas of jurisdiction. These were resources generated within the regions through the efforts of the residents in these regions. Even then, tariffs were paid to the Federal Government, with little references to the regional governments. Hence, these broad ranges of taxes, levies and duties were under the absolute control of the Federal Government. Then it was convenient for these regions to emphasize derivation, hence its inclusion in the 1960-63 Constitution (Sagay, 2001).

The second premise was that the 36 states and the 774 Local governments throughout the country and Federal Capital Territory are a creation of the Federal Government rather than being seen as independent nation-states like what obtains in the United States of America (Okunade, 2008). Thirdly, that the resources to which each of the states, council and or the towns in Nigeria can lay claim should exist within such respective defined boundaries, bearing in mind the existing land use decree enacted by the Federal Government of Nigeria. Thus, not only do the minerals and the lands belong to the federal government, the resources have been developed and their values enhanced by the investment of funds of the whole country over a long period of time since 1914 (Aluko, 2001).

The final argument in support of federal control of resources was that the nation needed to be able to make financial grants to poor states to ensure a level of living condition for every Nigerian below a national minimum considered desirable by the Federal Government as in the case in Australian Federation (Aluko, 2001). These ways, the proponents of centripetal fiscal federalism believe that the federation would be strengthened, national unity properly upheld and the individuality of the country inviolable. To this end, they recommended that what the states should rather clamor for is revenue control rather than the resources control. Centrifugal forces contend that ownership of resources should rather be the major determinant of who gets what, when and how in the fiscal federalism. This position was illustrated and grounded in economic principle that land, labour, capital and entrepreneurship are factors of production. According to this school of thought, owners derive rent on royalty and from labour, wages, capital interest and entrepreneurship, for profit and reward for landowners for the use of exploitation or exploration of the land is an inalienable right that no government can abrogate. The only thing they felt the government could do is to impose tax to be used for the welfare of the community (Djebah and Aderibigbe, 2001.) This position is under-pinned by, first, that under the original federal dispensation, all resources were under the control of the states. Secondly, that as a result of such control, the states were able to develop at a rate that is no longer tenable under the present system of resource control. Not only have the colonial laws and the successive indigenous government laws made mineral the ‘property’ of the Federal Government of Nigeria, the Land Use Act of 1979, has also effectively placed all lands in the country in the care of the Federal and State governments (Omoruyi, 2001).

The third and final centrifugal argument in support of fiscal decentralization is that in at least ten federations across the world, all except three had adopted fiscal decentralization. These three federations are; Indonesia, Australia, and Nigeria and they are said to belong to younger, or less matured federations (Onimode, 2001). It is the view of the proponents of this argument that Nigeria is making gradual effort towards fiscal decentralization, though slow but steady. They contend that the Federal Government's fiscal reforms through fiscal review commissions up to 1992 show this assertion. For instance, under the civilian administration of Alhaji Shehu Shagari, derivation criteria were allocated at 1.5%. It rose to 3% under General Ibrahim Babangida while the 1999 constitution made provision for 13% (Sagay, 2001). These were indications that fiscal decentralization was actually improving slowly but steadily. The fact that sixteen years after the enactment of the constitution, there has not been any constitution review to move the percentage higher in spite of several agitations for resource control by the resource producing regions, underscores the level of the slowness of the inclination towards fiscal decentralization.

V. Conclusion

The essence of true federalism is to allow component units of the federation achieve some significant measure of autonomy to manage their affairs. The federalist debate in Nigeria centres essentially on the need to understand the basis of the contract of true federalism and resource control. Despite the contrived arrangement as articulated by the ruling class, the systematic dysfunction has resulted in a series of violent, dramatic and traumatic inter-ethno regional confrontation, ventilating the essence of the debate (Ihejiamaizu, 2001). Political observers have argued that the agitation for resource control is a test case for the enthronement of true federalism for what made the regions strong in the first republic was their financial independence. Each region took care of itself and its needs of itself and its needs within the limits of its internal revenue resources.

VI. Recommendations

No doubt, Nigeria cannot become a strong and united federation unless and until the constituent parts are sufficiently empowered by the enabling practices that conform to the principles of true federalism. It is the recommendations of this paper that:

1. A major constitutional reform should be in place to make the states autonomous and truly independent. All manifestation of unitary system of government should be removed from Nigeria's federal structure by allowing the states the degree of freedom and autonomy consistent with federalism.
2. There is need for review of the revenue allocation formula in order to increase the share of the federating units- the states- to facilitate the discharge of the additional responsibilities discharged to them. The derivation formula should be increased substantially from the current 13% to about 50% for the oil producing states, and the derivation principle should be extended to other resources including solid minerals and agricultural resources.
3. An agreed percentage of tax or royalty should be paid by the states to the Federal Government. The federal Government should identify and repeal all legislations that encourage economic oppression, political repression and environmental pollution of the Niger Delta and other parts of the country.
4. The Federal Government should tie accruable fund from the federation account to specific development projects in the oil producing communities to prevent misappropriation. This will enable the oil producing communities to benefit more from the revenue allocated.
5. The agitations for resource control should be settled through dialogue, diplomacy, superior argument and legal means instead of recourse to violence and militancy.

It is my humble submission that the fiscal federalism that should be practiced in Nigeria should align with the centrifugal forces that federating states should derive rent on royalty and from labour, wages, capital interest and entrepreneurship, for profit and that reward for the landowners for the use of exploitation or exploration of the land is an inalienable right that no government can abrogate bearing in mind that the only thing the government could do is to impose tax to be used for the welfare of the community (Djebah and Aderibigbe, 2001).

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