

How True is Nigeria's Federalism: A Theoretical Perspective

Vincent Tam Eremie, Ph,D

Department of Political Science, Ignatius Ajuru University of Education, Rumuolumeni, Port Harcourt, Nigeria.
e-mail: eremie.vincent@yahoo.com

ABSTRACT

Against the background of calls for the establishment of true federalism in Nigeria, this paper examines the literature on federalism in order to find out the true form of federalism. The aim of the paper is to identify the "federalist mean" and to locate the extent to which the Nigerian federation deviates from this "mean". The paper argues that every federal state is unique in terms of its experience and historical antecedents, and therefore adopts institutions, structures and processes that best suits its needs. There is therefore no "true" or "false" federalism. The study adopts idealism as the theoretical framework, and undertakes data collection and interpretation using the historical method. The paper observes that no two federations are alike given that no two states are actually the same. It was further observed that every federation is in a fluid state, swinging between unitarianism at one end and confederation at the other end. Finally the study discovers that there is no mean as long as federalism is concerned, therefore Nigerian federalism cannot be described as true or false. The study therefore recommends that Nigerians should drop calls for the enactment of true federalism. Rather a continuous political debate is needed to discuss the restructuring of federalism in Nigeria in a direction that could enable Nigerians achieve their expectations,. Issues such as accountability and transparency, resource management, human rights and safeguarding the future of unborn generations should be on the front burner of this debate at all times.

INTRODUCTION

Federalism is one of the political systems that has evolved and been adopted by certain nation States. The system has existed in one form or the other over centuries. However modern federalism is usually traced to the United State of America. Dikshit (1975) anchoring his review of the literature on the origin of federalism restates the position of Dicey's and Whereas' dictum that "federalism is born when political communities in an area desire union without desiring complete unity. Dikshit goes ahead to state that this dictum is predicated on two principles: the first is the existence of common interest which in the thinking of the constituent unite can best be served only through collective effort hence the desire for unity; the second is the existence of parochial interest which each federating unit thinks can best be served through individual action in order to retain some from of autonomy to decide issues they consider too personal to be taken to the union. This state of affairs is definitely responsible for the maxim unity in diversity.

Appadora (2000-495) brings out the defining characteristics of federalism and these include the presence of a central authority that represents the whole, and acts on behalf of the whole in external affairs and in such internal affairs as are held to be of common interest and the existence of provincial or state authorities with powers of legislation and administration within the sphere allotted to them by the Constitution. The implication is that there is a division of functions, duties and obligations of government between the national government and governments of constituent units. The division is usually done by a rigid and written constitution.

For some scholars however the distribution of responsibilities and obligations can also be done by the parliament. Garner (1952:348) cited in Johari (1982:281) contend that federalism presupposes that the totality of governmental power is divided and distributed by the national constitution or the organic act of parliament creating it, between a central government and the government of the individual states or other territorial subdivisions of which the federation is composed.

Thus the underlisted attributes can be ascribed to federalism; the existence of two tiers of government; the existence of a central political authority alongside the presence of political authority at regional or state level; the presence of a written and rigid constitution that lays out the grand rules for engagement; and the division of governmental authority and public resources between the central and territorial political authorities. Nigeria has been classified as a federal state for at least the past sixty years. The federal system has undergone tremendous evolution since its inception in Nigeria. However in recent times many commendators, in their ranks academics, public affairs analysts and politicians, argue that Nigeria is not a true federal state. Consequently there are calls for moving Nigeria in the direction of true federalism. This is the issue that has provoked our attention in this presentation. We wish therefore to attempt finding answers to the following questions: is Nigerian federalism a

false one? Since the opposite of true is false. What is true federalism? Is there a model federalism Nigerian federalism can be built on? Is there a federal mean? How can Nigerian federalism become true?

In finding answers to the above questions, this write up will be guided by a central argument that the type of federalism operational in a given state is a product of the unique political, religious, economic, historical and ideological experiences of that state. Given that each state is unique in its evolution, it will be extremely difficult to find a model federal system and therefore evolving a true federalism could at best be a mirage, at worst an unattainable utopia. We shall buttress our position through the examination of historical data, that is, secondary data, which shall be subjected to a systematic analysis.

In the remainder of the study we shall state a theoretical framework, the lenses through which the study is conducted. We shall also examine the evolution of Nigerian federalism and locate federalist trends in other federal states. Then we shall attempt to locate the “trueness” or “falseness” of Nigerian federalism. The objective is, as much as possible, to identify the federalist mean and establish the extent to which Nigerian federalism deviates from this golden mean. Some closing remarks will be made at the end.

THEORETICAL FRAMEWORK

This study is undertaken within the framework of idealism. Usually a theoretical framework is chosen because the scholar accepts the potency of the theory in generating understanding of the issues under investigation.

Thomas (1995: 12) contends that an ideal type describes the essential characteristics of some aspect of society. An ideal type is constructed by examining many different examples of a phenomenon and then describing the essential features. “Idealism therefore presupposes a comprehensive examination, as much as possible, of socio-political phenomenon, noting its universal features and thereby comparing different systems to see how they fit into the general pattern. Thus Hogan (2000: 196) insists that idealism is “a philosophical orientation covering a wide range of metaphysical and epistemological doctrines that view mind or spirit as the ultimate reality or the basis of experience and knowledge.” Hogan goes ahead to reconstruct Kantian idealism as holding that what we perceive of the “external world and believe to be real or true reflects the internal organization of the mind and thought processes.” Finally, he highlights Hegelian idealism as stressing that in our “perception of an object its specific form is unimportant: significance lies in the suggestion to the perceivers of an essential idea.” Here we see the superiority of ideas over “reality.”

Another scholar illuminates Hegelian idealism further, stating that it emphasizes the importance of the mind and mental products over and above what is seen by the eyes (Ritzer, 2012: 22). Ritzer explains further that idealists emphasize not only mental processes but also the ideas produced by these processes, stressing that Hegel paid much scholarly attention to the development of such ideas. The centre-piece of idealism is for the individual to have a mental image of a phenomenon and use that image as a guide when examining the physical environment around us.

Though Hegelian idealism is not the only brand of idealism in the literature, one observes that his postulations cut through the heart of idealism. Besides many of the other scholars have made their contributions to idealism by either building on Hegelian idealism or criticizing it. This explains the thrust towards Hegelian idealism in this presentation. However we are aware that idealism has suffered some damaging criticisms, especially from Karl Marx. As long as Karl Marx is concerned, the material conditions the mental and philosophical orientation of, not only the individual, but the society at large. While this work does not intend to joint issues with Marx, we wish to observe that Marx himself adopted idealism in his study, perhaps unintentionally. For instance he, like Hegel, saw society s moving from less complex, simple forms to more complex and sophisticated forms. In addition Marx observed that exploitation of man by man began in the slave mode, and this exploitation runs through to the capitalist mode. He saw that the capitalist epoch is the most exploitative. The question arises: if the degree of exploitation differs from one human epoch to the other how was Marx able to identify exploitation in all the epochs? The answer is simple-he had a mental and philosophical understanding of exploitation as a socio-political phenomenon. This is what idealism is all about.

The German philosopher, Marx Weber, applied the principle of idealism to the study of power and authority. He identified three types of authority, viz charismatic authority: traditional authority: and rational – legal authority. He notes that it is often difficult to see pure forms of any, noting that “in reality authority would never conform perfectly to any of his three types,” (Haralambos and Holborn, 2008: 522). Haralambos and Holborn (2008: 778)

go on to stress that the ideal type as developed by Marx Weber is meant to describe “the theoretically perfect example of a phenomenon against which actual examples can be compared.” This theoretically perfect example “is hardly operational in reality. Again we are forced to look at the postulations of Karl Marx, as regards the types of society humanity has had. An examination of any of the Marxian epochs will reveal a co-habitation of both the thesis and the antithesis elements without producing the synthesis. For instance, communism functioned in the defunct Soviet Union for upwards of seventy years. However, the state did not show signs of withering away, rather the communist state consolidated its position to the very end. No Marxist can sustain the argument that the defunct Soviet Union was not communist because the state, a pre-communist institution which was to be dissolved in the wake of the collapse of capitalism, survived for over seventy years in a communist society. The implication therefore is that social phenomena are better approached from a mental and philosophical orientation.

Our examination of idealism has produced some truths that need highlighting: that a socio-political phenomenon is better conceived as a mental and philosophical undertaking; that no socio-political phenomenon can in reality display all the components of the phenomenon; and that socio-political phenomenon is not static but evolves from one point to the other. We have adopted this theoretical framework to enable us make the argument that there are no ideal phenomena and so the issue of “true” and “false” needs not arise. Put differently, that there is no true or false federalism. This point has to be made because if the present political discourse in Nigeria moves federalism away from the status quo ante there will be no hope for future restructuring of federalism in Nigeria since that may mean a deviation from the true federalism.

EVOLUTION OF FEDERALISM IN NIGERIA

The emergence of federalism in Nigeria is traceable to the Nigeria Letters Patent, 1946. Commonly called the Richards Constitution of 1946 it balkanized the hitherto amalgamated Colony and Protectorate of Nigeria into three groups of provinces – the North, East and West. It went ahead to create three administrative capitals (Ibadan, Kaduna and Enugu) for the regions, as well as establishing legislatures for each region. These new structures existed side by side with the central executive and legislative structures (Nigeria Letters Patent, 1946). This situation made Nigeria to meet some of the fundamental attributes of federalism: existence of national government side by side governments of component units; existence of component units called group of provinces or regions; a vertical division of governmental powers; and finally the presence of a constitution. Many people have argued that the institutions at the regional level were weak and therefore they could be described as field agencies of the union government. Our contention is that the shortcoming of the regions at the time reflect the general character of colonial rule rather than an absence of federalism. Like every other political phenomenon, federalism in Nigeria began its evolution as soon as it was legislated into being. Thus from a humble beginning of three weak (or maybe miniature) regions, federalism has evolved into 36 stable states, each with its full complement of legislative, executive and judicial institutions. Given the limited space available to us, we shall examine the subject matter of this section by highlighting revenue allocation and some basic provisions of the constitution.

We wish to observe that Nigeria has had a total of nine Constitutions from 1922 to date; five of them – Clifford 1922, Richards 1946, MacPherson 1951, Lyttleton 1953 and Independence 1960 – were either created by the colonial master or midwived by them. Four constitutions – Republican 1963, Second Republic 1979, Third Republic 1989, and Fourth Republic 1999, are rightly referred to as post-colonial Constitutions, of which only one, the Republican Constitution of 1963, was enacted by civilians. Every constitution, beginning from the MacPherson Constitution of 1951, has attempted to pull Nigerian federalism in a particular direction. For instance whereas the 1960 Independence Constitution was essentially monarchical, the 1963 Constitution strengthened federalism in Nigeria through the establishment of the Supreme Court as the apex court in the country (Constitution of the Federal Republic of Nigeria, 1963). The various post independence constitutions have also continued the balkanization of the country into states: the 1960 constitution recognized 3 states or regions; 1963 had 4 states; 1979 had 19 states; 1989 recognized 21 states; while the 1999 Constitution has 36.

The basis of representation at the centre has always been along the lines of the Connection Compromise since the 1950s to date. This Compromise created a bicameral legislature at the centre – an equal number of senators represent each state in the Senate (based on the principle of equality of states) and each state having representation in the House of Representatives proportional to its population (based on the principle of equality of persons). At the state level there has been an oscillation from bicameralism in the colonial era and the

immediate post – independence era to unilateralism since 1979. The country has always retained an Exclusive Legislative List and a Concurrent Legislative List, even though the composition of the lists has changed. The items in the Exclusive List in post-independence constitutions are as follows: 1963: 45 items, 1979, 67 items; 1989, 66 items; and 1999, 68 items. The Concurrent List has also produced some up and down movements: 1963 29 items; 1979, 30 items; 1989, 29 items; and 1999, 30 items.

In a later section the implications of these figures shall be adumbrated. For now we shall turn our attention on revenue allocation. Resource control is one of the reasons why some sections of the Nigerian society call for true federalism. We begin our examination of revenue allocation within the context of the 1963 Republican; and our position needs an explanation. The 1963 Republican Constitution was largely rewriting of the 1960 Independence Constitution with very few modifications. The 1960 Independence Constitution itself was an encapsulation of the colonial constitutions and constitutional conferences. Therefore taking the 1963 Constitution as a departure point makes sense. The 1963 Constitution in section 140(1) states that “there shall be paid by the Federation to each Region a sum equal to fifty percent of (a) the proceeds of any royalty received by the Federation in respect of any minerals extracted in that Region and (b) any mining rents derived by the Federation from within that Region. This section and others related to revenue allocation were actually predicated on the principle of derivation – i.e to each region according to its contribution to the Federation in term of resources. However the implication of the derivation principle was that the regions enjoyed financial advantage over the national government, and in an era of tribalism and ethnicity, the position of the centre was weakened considerably. Thus in the aftermath of the demise of the First Republic in 1966, the military administrations attempted to weaken the regions to the advantage of the center. A two-pronged approach was adopted; the creation of states and the encroachment into areas in which states had enjoyed financial hegemony. The later removed the prominence of the derivation principle, in favour of population, equality of states, and so on. These modifications have been reflected in all subsequent constitutions in Nigeria. The 1979 constitution, in section 149 created the Federation Account but removed derivation principle, and rather gave the National Assembly the power to distribute proceeds of the Account according to criteria worked out by it. Not only did the National Assembly determine the criteria to be adopted in the vertical allocation of revenue, it was also empowered by the Constitution to determine the criteria to be used in distributing the share of the states to them. The Federal Government exploited its new found constitutional dominance and gave the states whatever it deemed fit. The situation was so bad the Unity Party of Nigerian controlled Bendel State; dragged the National Party of Nigeria controlled Federal Government to court over the issue in the Second Republic. The judicial process did not produce outcomes that helped the case of the states. The provisions contained in section 149 of he 1979 Constitution were reproduced log, stock and barrel in section 160 of the 1989 Constitution.

The 1999 Constitution made a few modifications. In section 162(2) it states that in evolving the revenues allocation formula the National Assembly shall consider the “principles of population, equality of states, internal revenue generation, landmass, terrain and population density. It further states that the principle of derivation should be allocated at least 13%. It is worthy of note that the 1999 Constitution has been in operation for upwards of thirteen years and no attempt has been made by the National Assembly to adjust the revenue allocation formula, thus fueling the calls for true federalism. Okoli (2012:25)” argues that “practical term, it is only when fiscal federalism produces an allocation regime that is fair, just equitable and acceptable, that the classical dictum of that father of federalism, K. C. Wheare (sic) 1963 to the effect that in the federation, the component units are equal but coordinate can be fully realized.” Thus the absence of an acceptable fiscal regime could deny a state a federal status, at least in the thinking of Okoli. This is a position that is difficult to sustain however, and unacceptable to this paper. Our position is predicated on our theoretical framework of idealism, i.e. that a phenomenon needs not attain all attributes before it can be classified into any given category.

The recent security challenges the Nigerian state has been subjected to has also led to calls for true federalism in the country. There is Boko Haram insurgency in the North East and illegal oil bunkering in the South-South. Religious extremism, kidnapping, murder and other acts of criminality currently confront the Nigerian state. The thinking of some state rightists is that Nigeria needs to remove police affairs from the exclusive legislative list and repost it to the concurrent legislative list so that even the states can have their own police formations. Governors Rochas Okorocha of Imo State and Chibuike Amaechi of Rivers State represent the view of the state rightists in this matter. According to the two Governors almost all the other federations in the world have the police in the concurrent list. There is no justifiable reason why Nigeria should be an exception. They argue further that a state governor cannot be called chief security officer of his state, as he is presently described, when

he does not have even a police formation under his command. The duo and their cohorts have expressed their positions coherently and consistently in many fora, contending that the constitution should be amended to empower any state that can afford it to establish their own police. For those on this side of the fence, the absence of constitutional provision for state police makes Nigerian federalism not to be true. We wish to state here that even though the police is currently in the exclusive list, it was in the concurrent list in the 1950s. The movement of the item from one list to the other reflects the dynamics of federalism in Nigeria. Again we wish to ask, must all elements be present before we can have a “true phenomenon?”

TRUE FEDERALISM

In the introduction an attempt was made at locating the fundamental attributes of federalism, and these attributes include the vertical distribution of governmental powers and resources to two tiers of authority; the existence of a written and rigid constitution; presence of a central authority side by side authority at the level of component units. In the last selection we examined the evolution of federalism in Nigeria. A marriage of the introduction and the last section reveals that Nigeria’s federalism displays all the fundamental features of federalism. The data show further that Nigerian federalism, like federalism elsewhere, is evolving; and evolution is what federal systems are known for. Federalism is not a state. Federalism is a process, a never ending process that oscillates between unitarianism and loose confederation. Johari (1982:282) reasons that “modern federal system falls somewhere between a unitary government and a loose association of sovereign states. It has developed a difference of kind with a confederal model, it has brought about a difference of degree with a unitarian system”. The exact direction or evolutionary path it adopts at any given time depends on a number of factors. Dye, et al (2005) focusing on the United States, posit that “American federalism has evolved... from a state – centered division of power to a national – centered system of government.” They went ahead to trace the evolutionary path of federalism in the United States. State – Centered Federalism (1787 - 1868) – Dual Federalism (1869 - 1913) - Cooperative Federalism (1913 - 1964) – Centralized Federalism (1964 - 1980) – New Federalism (1980 - 1985) – Representational Federalism (1985 - 1995) – Federalism Revived (1995 - date). In a nutshell, each of these stages defined either state dominance or center dominance or cooperation between both parties. Much of the dynamic has been driven more by finance rather than by constitutional amendments. A political phenomenon moves faster than the constitutional and legislative framework within which it operates. Given the fact that federalism in the United State evolves, the question arises: at what point do we say America had true federalism? because at that point further evolution will be undesirable Answering this question will be highly problematic. However the situation becomes more complex when we place the American system side by side other advanced federal systems.

Mitra (2004) argues that the Indian federal structure is skewed in favour of the center, especially in the distribution of governmental authority and revenue allocation. He goes ahead to observe that in “India, unlike in the United States, the constituent states do not have their own separate constitutions.” The Indian constitution grants strong powers to the centre expressly. However in the United States, even at the best of times, the centre dominates only by exploiting loopholes in the constitution. The debate in the United States today is on how to reduce the power and influence of the national government in the lives of the people. In India center deomince is taken for granted. Which of the two federalisms is true? Should the “false one” lose its tag of federalism?

Next we place the Swiss Federalism against that of the United States. Palekar (2009:163) posits that “the Federal Government in Switzerland is vested with greater power than that in the U.S.A. It has a larger number of legislative powers than those in the U.S.A.” He goes ahead to explain that cantons constitutions are subordinated to that of the federal government which also guarantees it. The center has the capacity to interfere in the affairs of the cantons even in areas the cantons are suppose to enjoy constitutionally granted powers.

In the American system thirteen independent states decided that federalism was a better way of organizing themselves, given the fact that they all had a common historical experience. They also reasoned that union was capable of making each constituent unit better suited to tackle its local and external environments and maximize effectiveness and efficiency. However McLean and McMillan (ed.2003:195) explain that in “Belgium the growing rift between Flanders and the French – speaking Wallonian population rendered the maintenance of a centralized, unitary form of government impossible.” This situation produced divisions along linguistic lines, and as a way out of this state of affairs, “a gradual process of federation with major constitutional revision occurred throughout the 1970s and 1980s.” Interestingly the Belgium federalism is closer to that of Nigeria in origin. We recall that Nigerian leaders opted for federalism in order to give expression to their ethnic and

linguistic leanings. Now the United States federation brought independent units to form a federation, the Belgian federation balkanized a hitherto unitary system in order to have a federal system. Once again we ask the question: which of the two federal systems is true which is false?

CONCLUDING REMARKS: RESTRUCTURING NIGERIAN FEDERALISM

Our attempt to present and analyze data has shown that every federation is in a state of fluid, and that fluidity is a fundamental characteristic of the system. Thus there is no ideal federal state as every federation, like a sea tide, flows between unitarianism and Confederation. Every federal state evolves structures, processes and instructions that best serves its needs, given its peculiarities and unique experiences. It will be difficult for Nigerian's federalism to operate outside the box. Rather then call for true federalism, the debate should be on how to restructure Nigerian federalism for it to meet the changing expectations of its citizens. Meeting needs should be the fundamental objective of the system. When the existing structures fail to meet the expectations, then the search for appropriate measures has to be undertaken. A mean for federalism cannot meet this objective.

To achieve the above, we need a constructive debate between the federalists and statistes, the center rightists and the region rightists. Specific issues should be on the table and objectivity and nationalism (commitment to the survival of the union) should be the watchwords. Such issues should include states creation (do we need to create states sine die?), center state relations, accountability and transparency, resource management, human rights of Nigerians and safeguarding the future of the unborn generations. These concerns should be given priority rather than the kill and bury disposition of our current political leadership. Discussions on these issues should not be rushed, nor should they be given a class character. The ordinary Nigerian needs an opportunity to express his views. The debate should be a continuous one, based on principles of objectivity, fair play, equality of persons and states, and a desire for union and cooperation.

REFERENCES

- Appadorai, A (2000) *The substance of politics*. New Delhi: Oxford University Press.
- Constitution of the Federal Republic of Nigeria, 1979.
- Dikshirt, R. D. (1975). *The political geography of federalism: an inquiry into origins and stability*. New Delhi: S. G. Wasani
- Dye, T. R, et al (2005) *Politics in America*. (6th Texan Ed.) New jersey Pearson Prentice Hall.
- Federal Republic of Nigeria: *Constitution of the Federal Republic of Nigeria* 1999.
- Haralambos, M and Holborn M. (2008) *Sociology: themes and perspectives* (7th Ed.) London: Harper Collins Publishers Limited.
- Hogan, M. (2006) *Academic's dictionary of sociology*. New Delhi: Academic (India) Publishers.
- Johari, J.C (1982) *Comparative politics*. (3rd Ed.) New Delhi: Sterling Publishers Private Limited.
- Mclean, I and McMiland A (eds, 2003) *Oxford concise dictionary of politics* Oxford: Oxford University Press.
- Miltra, S. K. (2004) *Politics in India*, in G. A. Almond, et al (ed) *Comparative politics today, a world view*, (8th Ed.) New Delhi: Dorling Kindersley (India) Pvt Ltd.
- Okoli, F. C. (2012) "Liter-Governmental Rlations and the Survival of Local Government in Nigeria, Security Challenge", a Paper Presented at a National Workshop for Local Government Key Functionaries on Repositioning the Local Government for Effective Service Delivery in Nigeria.
- Palekar, S. A. (2009) *Comparative politics and government*. New Delhi: PHI Learning Private Limited.
- Public Notice No. 139, Nigerian Letters Patent, 1946.
- Ritzer, G. (2012) *Sociological theory*. (8th Ed.) New York: McGraw Hill.
- The Constitution of the Federal Republic of Nigeria, 1989
- Thomas, W.I. (1995) *Sociology: the study of human relationships*. (5th Ed.) Austin: Holt, Rinehart and Winston