An Exploration of Contending Issues in Nigeria's Federal Practice

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Abstract: *Since the emergence of modern federalism as a system of government through the exertions of American statesmen in the 18th century, the system has gained universal acceptance but more particularly in heterogeneous societies. The federalist model of accommodating diversity through the management of social cleavages and the schisms that often occur provides a suitable option for multicultural societies. Its mechanistic character of shared rule and separate rule, amidst the foreclosure of secession has provided assurances for political stability and peaceful coexistence amongst the variegated segments of heterogeneous states.*

Nigeria's adoption of the system in the 1954 Constitution offered possibilities of managing the complexities that come with the country's wide diversity. However, the application of federalism to the country's scenario has been found wanting in numerous respect. Hence, the inability of federalism to arrest the descent into political instability, economic underdevelopment and socio-cultural disharmony. This paper isolates specific variables (horizontal and vertical relationships; asymmetry and symmetry relationships; diversity issues; minority question; constitutionalism and constitution-making processes) that are germane to the prospects of successfully working the federal system and processes in Nigeria. In the final analysis, the point is made that no other system may be more suitable for Nigeria other than federalism, as such the need for concerted and coordinated efforts by all stakeholders for appropriate management of federalism is required.

1. Introduction

Under the peculiar circumstances of the emergence of the Nigerian State, the adoption of the federal system provided the most logical platform for the survival of the

state. Principally, the adoption of the federal system was informed by the factors of necessity for both autonomy and collaboration among the various groups that make-up the Nigerian-State. For indeed the state was created from the merger of separate groups that have distinct identities, orientation, beliefs, systems, culture, etc. Thus, for the prospects of unity amidst diversity, the federal arrangement appears the most viable option. This point was driven home with the outright rejection of the adoption of the unitary system of government through Decree 34 of 1966. However, despite the realization of the appropriateness of the federal system for Nigeria, stakeholders are yet to properly apply the principles of federalism to solve the numerous challenges confronting the Nigerian State.

In this article, some of the variables that have not been adequately handled by the Nigerian ruling class to provide a suitable federal system are highlighted. In this regard, we would discover that the process through which the federal system emerged is faulty, invariably therefore, the management of relationships among the units and institutions working the supposed federal covenant remain tensed. This has weakened the capacity of the Nigerian State to provide the benefits of political stability, economic growth and development and socio-cultural harmony to the citizenry.

The paper commences with the platform for a framework, whereby the point is made that the plural character of Nigeria and the resultant diversity requires an effective and efficient federal system. This is followed by the second part in which the paper presents the variables that require adequate attention before the Nigerian federal system can work for the benefit of all. This is followed by the conclusion.

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2. Framework of Analysis

Founded on a pluralistic denominator, Nigeria has had to contend with accommodating the variations presented by its political realities. As a critical variable in heterogeneous societies, plurality absorbs both individualistic and communalistic tendencies. It is against this backdrop that Bella (1991) points out the groundswell of errors and misconceptions about the essence of pluralism. Bella (1991) disagrees with the limitations imposed by either the individualistic or communalistic adherents because of the inherent dangers these pose for harmony in heterogeneous societies. In the explication, the former suggests that "not only society as a whole but every group and every sub-group is said to be pluralistic, and the logical conclusion of that line of thought is to reduce society to its constituent individuals" (Bella, 1991: 47). Accordingly, this 'shallow' conceptualization of pluralism is never able to describe the actual nature of any political entity. In a similar vein, communalist pluralism is also considered inadequate for the ordering of societies. This inadequacy is coming on the heels of the perception of community as distinct groups within a society. In essence, each of the communities is presumed to pursue community-based agenda, which are radically different from those of other communities, but may in the long run, be in conflict with the agenda of the whole.

Using the American example as case-study, Bella (1991) argues for a third conception of pluralism which embraces a balance between the positive aspects of both individualistic and communalist pluralism. According to the author, this should involve "balancing between the conflicting pull toward radical individualism on the one hand and absolutist communalism on the other" (Bella, 1991: 51).

Murray (1954: 63) conceptualizes pluralism from the normative standpoint. Accordingly, pluralism is concerned with "the coexistence within the political community of groups who hold divergent views with regard to ultimate questions concerning the nature and destiny of man". On

this basis, Davis (1974: 36) defines "pluralism as the co-existence within the political community of differing and incompatible value judgments". Thus, even homogenous societies, (homogeneity in terms of culture, language, origin, etc.) are equally characterized by critical divergences that accentuate plural tendencies. To buttress this point, Davis (1974) divides pluralism into the valuational and functional perspectives. The argument is: "valuational pluralism implies disagreement and dissension within the political community". Most of the challenges within political communities arising from the collective desire for the common good lie in the divergence of value judgments. As such, States, whether forcefully put together by an occupation force, through the basis of agreement among societies, or through the work of nature all have a common thread running through them. The common thread is the desire for cooperative ventures in order to achieve collective goals. Davis (1974: 52) therefore contends that rather than assume pluralism in the mould of brute plurality, it should be accepted as "harmony amid discord, unity of social life and political action amid religious and valuational conflict". But asides of the value-laden implications of pluralism, the functional model of pluralism is also relevant. Whereas the valuational aspect concerns all the varieties of political culture, the functional deals with the interrelated subject of political structure.

Davis (1974: 54) defines functional pluralism "as the segmentation of society into institutional sectors, each with a high degree of autonomy or institutional isolation". This is a necessity because of the characterization of every society as complex, highly differentiated in character, and which is often devoid of human activity, but operates mainly on "intellectualized and bureaucratized" mechanisms. In all of this functional circumstance, the valuational aspect of pluralism plays a tremendous role. The nature of political structure is a derivative of the value orientation within any society. This presupposes that the origin and management of challenges arising from functional pluralism within any society would be determined by the amount of coordination and interest placed on the discordant tune emanating from the level of valuational pluralism. It therefore follows as the extent to which a State can accommodate diversity.

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In a strict political context, pluralism refers to the incorporation of societies from diverse origin, background experiences and cultures within one State. In this wise, pluralism encourages the development of a common tradition while preserving the right of each group to maintain its cultural heritage. Despite the existence of sometimes complex diversities, pluralism can only thrive on a system of inclusion, rather than exclusion which allows for mutual respect and tolerance. According to Eckstein (1966: 22), a plural society "exists where political divisions follow very closely, and especially concern lines of objective social differentiation, especially those particularly salient in a society". This is represented in the mould of religious, ideological, linguistic, regional, cultural, racial or ethnic differentiation. Despite the existence of segmental cleavages arising from diversity, pluralism could very well be a source of strength and energy. On the other hand, its poor management portends great danger for the political stability, economic growth and development and cultural aggregation for the State concerned. In this wise, and with reference to African States, Morrison and Stephenson (1972: 83) conclude that:

> *"… cultural pluralism increases the likelihood of conflict between members of communal groups in black African nations and increases the probability of communal and elite instability in these nations."*

Having acknowledged the diversity of interests within a plural State and the probable negative consequences of its mismanagement, it is imperative that mechanisms must be established to forge the sense of accommodation and collective desire to achieve political stability and economic growth and development. Hence, the mechanistic feature of federalism presents it as an ideal political system for plural societies. This assertion is buttressed by Kumar (1998: 52), where he argues that:

> *"… there is an interlocking relationship between pluralism and federalism, for both are principally rooted in the belief that diversities are not to be downgraded in the pursuit of society and State building, but conversely be respected, tolerated and accommodated."*

It is against this backdrop that the work provides insights into the various plurality-related issues that have arisen in the governance processes of Nigeria, and how federalism has been engaged as a mechanism for settling discontents arising from the individualistic, communalistic, value and function-related pluralism.

3. The Nigerian Federation in Perspectives

A concomitant of the complexity of human nature is the variations often displayed about systems and institutions in the public-sphere. Even when standards exist in the processes of systems and institutions, peculiar benefits could only be derived when processes are compellingly adapted to local realities. Federalism is no exception. According to Watts (1996: 1):

> *"There is no single pure model of federation that is applicable everywhere. Rather the basic notion of involving the combination of shared-rule for some purposes and regional self-rule for others within a single political system so that neither is subordinate to the other has been applied in different ways to fit different circumstances."*

The variations (dissimilarities) justify the basis for assessment. Deriving from this, Watts' (1996: 14-15) three-pronged platform for design and operation of federations form the bedrock of our assessment. These are:

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- the interrelation of social institutions, institutional structures and political processes and the interaction of these affecting each other;
- the common and varying features of federations;
- issues in the design of federations that affect their operation.

Within the first category, we shall be considering inter/intra governmental relations, also known as, vertical and horizontal relationships among the units in the federal compact. At the second level of comparison is the nature of relationship that exists; degree of asymmetry/symmetry and its impact on resource allocation and lastly, the nature of diversity. The last part would focus on two of Nigeria's peculiar challenges; military heritage of the constitution-making processes and the minority question.

1. Inter-Governmental Relations

The nature of inter-governmental relationship forms the basis for the classification of federal systems. The cordiality or otherwise of the relationship determines whether a federation practises dual or cooperative federalism. Dual federalism refers to the strict adherence to and limitation of functions and jurisdiction among the unit and the central government, while cooperative federalism recognizes the limitations and jurisdiction of both the central and component units, yet allows intermingling because of the belief in the impracticability of strict adherence to limitations or autonomy. However, cooperative federalism is not meant for suppressing the will of the component units within the ambit of the central government; this possibility necessitates the practise of decentralization rather than devolution of powers between the central and component units.

Nigeria's political history is replete with a system of devolution. The pattern of relationship between the central and state governments in Nigeria cast shadows on the practise of federalism. The states are creations of an existent Nigerian-State, thus a relative level of dominance tilting in

favour of the central government is discernible. A deep analysis of the extant constitution would show that the states are wittingly subordinated in their relationship with the central government. One of the major pointers to this is the absence of powers to create their own constitutions. Jinadu (1982: 162-3) points out that "although states in Nigeria are autonomous in spheres of legislative competence assigned to them, their constitutions are in effect derivative from the federal constitution". Although the 1999 Constitution like its 1979 forebear lists the functions of both tiers of government as contained in the Exclusive, Residual and Concurrent Lists, the extent to which the central government has breached the process is unacceptable. The Constitution has ensured the pre-eminence of the central government in its relationship with the state governments. One of the overriding powers of the central government is in the inability of state governments to enter into treaties with other countries or international organizations. In essence, it can be established that the relationships between the central government and state governments in Nigeria tilts more towards centralization. The Nigerian scenario is partly a reflection of both the 'top-down' approach to the creation of the Nigerian-State and the military origin of the various constitutions.

Notwithstanding the nature of intergovernmental relationship, federalism entails a fair deal of autonomy between the units and the centre. This autonomy can be exemplified in the necessity for each member of the federal compact to fund its activities. This brings us to one of the crucial issues in intergovernmental relations- fiscal federalism. The idea of fiscal federalism is described in glowing terms by Ekpo (2007: 98) as enhancing "better service delivery and stimulates growth and development". In federations where the central government discharges the responsibilities of revenue and expenditure as it concerns the whole, fiscal relations appear the function with the most centralizing tendencies. In no other State is the centralizing tendency more apparent than Nigeria. The Nigerian Constitution gives the power of overall fiscal responsibility to the central government. According to Article 162 (2) of the 1999 Constitution of Nigeria:

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> *"The President, upon the receipt of advice from the Revenue Mobilization Allocation and Fiscal Commission, shall table before the National Assembly proposals for revenue allocation from the Federation Account ..."*

After the approval of the National Assembly, the executive becomes the dispenser of the revenue. This power has often been used as a bargaining weapon in the relationship between the centre and state governments.

A fundamental challenge of fiscal relations at the vertical level is revenue sharing. Its importance is derived from the unavoidable asymmetric composition of federations, which ensures inequality in contributions to the federal pool, but yet, expects equity, fairness and justice in the allocation from the same federal pool. The complex challenge of capacity and equality is one of the resource distribution issues in a federation (Usman, 2007: 76). A fact not unconnected with disparities in the needs and requirements of the component units on the one hand, and the possessions or ability to generate resources on the other. However, the overall management usually lies with the central authority. The management of accruable financial resources is fundamental to the sustenance of federalism (Olowononi, 1998: 247). In general, these resources are never evenly distributed; it therefore takes salient virtues of fairness, justice, equity and maturity in allocating the rents generated from the resources. By implication, the central government in a federal State is meant to coordinate, in conjunction with the component units, an acceptable revenue sharing formula which leaves none of the parties either overly advantaged or vice-versa over the others, and more importantly do not leave any of the component units short-changed in the arrangement (Oladeji, 2005: 2). Nigeria's revenue allocation issue is overly politically sensitive. It is akin to a zero-sum game, hence, rather than being a blessing, the immense natural endowments have become anathema to the polity. Expectedly, the Nigerian resources are also unevenly distributed, and the needs of the

states vary greatly, thus exacerbating disagreements over equitable sharing of the resources.

This has been the bane of inter-governmental fiscal relations in Nigeria. Nigeria's revenue allocation woes have been made possible by the inability to establish an agreeable revenue allocation formula, more than five decades after independence (Jega, 2007: 209-210, Iyoha, 2007: 221). Attempts have been made in respect of an agreeable formula through the series of ad-hoc revenue allocation commissions that were set-up in the past, but none has been able to settle discontents arising from this possible integrative mechanism for Nigerian federalism. To compound the woes, the agitations for a fairer deal by minority groups in whose domains the most attractive of Nigeria's resources are located have continued unabated. To signify the determined intention of halting the long years of unfair treatment in respect of revenue allocation, the southern part of the country in general and the Niger-Delta area in particular has been vociferous in its demand for equitable revenue allocation.

On a broader perspective, the disagreement over revenue allocation has intensified greater conflict of Inter-governmental Relations. Although, the discontents may be seen as coming from the southern states, there is much pressure on the federal government to evolve an equitable and just formula for intergovernmental resource allocation. The Nigerian circumstances in this regard can be captured in Suberu's submission. According to Suberu (1998: 22):

> *"The Nigerian federal system plays a pre-eminent role in collective distributive interest in Nigeria. Typical consideration is usually given to ethnicity, and the associated primordial paradigms of communalism, religion and regionalism have emerged as the primary organizing principles for conceptualizing, articulating, protecting or promoting collective distributive interests in Nigeria."*

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There have been nine different commissions on revenue allocation since 1946, yet the discontent arising from the subject is yet unsettled (Osagie, 2007: 119). Revenue allocation is regarded as subject of political compromise in Nigeria, and the situation is compounded by the nature of the economy. According to Oladeji (2005):

> *"Apart from being highly political, the issue of revenue allocation has become largely intractable in Nigeria due to a number of factors among which are the 'highly pluralistic nature of the Nigerian society; a succession of political upheavals, a dearth of reliable socio-economic data; a lack of consensus on appropriate distributive criteria and sharp economic fluctuations generated by the shift from peasant agriculture to an oil-based economy. Essentially, the shift to a monocentric oil economy has been particularly baneful, as it has intensified and focused distributive conflicts around a single source of revenue, namely federally- collected petroleum export rents."*

Citing the pre-1963 era, when the regions depended on agro-allied industries; they exploited their resources, generated revenue and recycled the revenue in development project within the territories, without generating undue political and economic tensions (Oladeji, 2005). The emphasis was on the principle of derivation and the regions were able to exploit their resources which encouraged developmental process in the regions and essentially relatively, few conflicts were witnessed. The critical starting point for the revenue allocation issue is traceable to the central government's claim of ownership of petroleum resources in 1969. From this period when petroleum rents belonged exclusively to the federal government, new

orientations, permutations and intrigues were introduced into the Nigerian revenue allocation policies. In fact Phillips (1991: 110) contends that none of the Revenue Allocation Systems (RAS) adopted by successive administrations have been adequate because of the emphasis "on the simplistic principles of population and equality ..." in the sharing formula.

The various revenue allocation reviews have not been able to assuage the perceived and actual sufferings of the zone that produces the petroleum resource, which forms the bulk of Nigeria's wealth. The most recent organized platform for demonstrating the anger of the South-South zone against the perceived injustice of the Nigerian-State was at the National Political Reform Conference organized in 2005, to chart a new course for Nigeria. The zone requested for a 25% derivation formula accruable to each zone producing any resource, which is expected to graduate to 50% in about five years and subsequently reach 100% at some time in the future. At that point in time, each of the resource zones would begin to pay royalty to the Nigerian State. This was rejected by majority of the delegates from the other regions (mainly the North), which were willing to increase the existing 13% to 17% derivation, and without any particular interest in the future. Unfortunately, no compromise was reached. The South-South conferees decided to embark on a 'walk-out' before the conclusion of conference proceedings.

The issue of revenue sharing formula is becoming more volatile in contemporary Nigeria. The people of the Niger-Delta region have resorted to arms through the formation of militia in pressing home their demands from the Nigerian-state. The State is calculating its response in order not to pitch the North against the South, because of the inherent dangers in the North feeling short-changed in any new arrangement. The revenue allocation predicament is one of the main issues keeping Nigeria's federal structure on shaky grounds; the structure can only be mended through the instrumentalities of genuine political compromises, negotiations and consensus.

2. Intra-Governmental Relationships

The nature of relationship between the various arms of

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government is typically determined by the system of government in operation. To this end, federations are wont to adopt either the presidential or cabinet systems of government, and sometimes, a combination of both. Having had the privilege of experimenting with the parliamentary system between 1960 and 1966, Nigeria's political elites decided to forge ahead with the presidential system since 1979 despite its lack of any significant advantage over the parliamentary system.

The Nigerian federal executive has a history of demonstrating a lack of concern for keeping with the dictates of the system in place. The executive has emerged as an imposing imperial lord concerned with the domination of the other arms of government. The nature of Nigeria's political milieu has encouraged flagrant disregard for the rule of the game, such that executive interference in the workings of the legislature and discountenancing court judgments have become the order of the day. It must, however, be noted that a change of attitude was observed in the Yar'Adua administration, which used every opportunity to vow about its commitment to keeping with the rule of law, and the observance of the principles of separation of power as expected of a presidential system of government. The Jonathan administration has also kept faith with this legacy.

3. Diversity Issues

At another level, it is pertinent to understand how the central government and its agencies have been able to manage and coordinate the relationships among the diverse groups in the State. Diversity represents one of the major defining characters of societies. The concept of diversity in relation to political entity refers to a conglomeration of both ascribed and naturally acquired attributes that distinguish individual/group characteristics, nuances, pretensions and predilections. These variables meet at the point where individuals impact on the governance of the State. Instructively, individuals do not exist in strait-jacketed isolation; they are members of groups, whose defining characters are in regular contact. To this extent, each

political-entity is diverse- whether homogenous or heterogeneous.

The diversity in heterogeneous societies is our point of departure. The situation is precarious in heterogeneous societies when diversity is not properly managed. Usually, it has a tendency to generate mutual mistrust and hatred, which often lead to deep-seated acrimony. On the other hand, its proper management puts the country in an advantageous position over its peers, and strengthens its capacity for growth and development. In political management strategies, States have been known to develop two approaches; one is the recognition and therefore institutionalization of diversity, while the other approach attempts to erase the lines of diversity, by uniting all the various independent entities within it.

Ordinarily, one would assume that Nigeria's diversity ought to be a source of strength, but contrast appears the case. The country is diverse in every way imaginable; culture, religion, ethnicity, etc., yet aspires to be united, hence the official by-line, 'unity in diversity'. An analytical dissection of the by-line implies an intention to unify a diverse society- a scenario whereby the society assumes a sacred 'Nigerianness', and relegates individual identities to the background. This has been an almost impossible task to achieve, for true to type, the individuals and groups have always found reasons to recline to their various cocoons; depending on the issues at stake. From the benefits of hindsight, the approach ought be an emphasis on the diverse tendencies of the groups with the mandate of co-existence within a united macrocosm called Nigeria. Thus, unlike the seeming forceful attempts of the 'unity in diversity' by-line to unify the various groups, the diversity should be respected and celebrated, yet made to serve the purposes of a united Nigeria. Against this backdrop, 'diversity in unity' would be a better appellation.

Relatively, the extent of Nigeria's diversity is confounding. Be that as it may, the complexity of Nigeria's diversity should be a blessing rather than a curse. Published figures on languages spoken in Nigeria have ranged from one-hundred and fifty (Tiffen, 1968), four-hundred (Bamgbose, 1976), and three-hundred and ninety-four (Hansford, Bendor-Samuel & Stanford, 1976). More recently,

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the number of languages is said to be in the region of five-hundred and twenty-one; broken down as five-hundred and ten living languages, two second languages without native speakers and nine extinct languages (Gordon, 2005). What is however clear is the existence of English as the official language and the recognition of the languages of the three major ethnic groups; Hausa, Ibo and Yoruba. The choice of English language is derived from the colonial origin and the necessity for a sense of unity which a single language would provide for a group of mutually suspicious peoples and the ease with which to conduct government business, among other benefits. In addition, the government appreciates the importance of the other three major languages. According to Section 55 of the 1999 Constitution:

> *"The business of the National Assembly shall be conducted in English, and in Hausa, Ibo and Yoruba when adequate arrangements have been made therefore …"*

To demonstrate government's interest in the promotion of the three indigenous languages, the value of the national currencies bear translations in the three major languages. In addition, schools, whether privately or publicly owned are encouraged to adopt at least, one of the three major languages in their curricular. Though, government's language policies appear to have alienated the minorities, the adoption of the English-language as the official language of political interaction and economic transactions create some form of soothing balm.

The religious aspect of the diversity is much more volatile than the language. Although, the State professes secularity, which by extension affects the component units (indeed the constitution prohibits both local and state government from adopting any religion), thus, the State has respect for religious freedom in practice. The provisions of Section 38 (1) of the 1999 Constitution have yet to strengthen the ability of the State to enforce respect for religious freedom or to prevent violence between religious

groups. The State's competence in this regard has been called to question a couple of times. An accurate figure of the spread of religious groupings has never been established, indeed, since the 1963 National Census, no religious question has been included in subsequent census questionnaires. This move is meant to avert the political undertones that would be generated by the claim of numerical preponderance of any of the religious groups, especially the two major ones; (Christianity and Islam). What is however not in dispute is that the Nigerian religious space is composed of Christians- Catholics, Protestants and Pentecostals; Muslims (mostly Sunis); traditional African beliefs and others. The religious spread between the major ethnic groups are; Hausa- 99.9% Islam and 0.10% Christianity, Ibo- 97% Christianity and 3% traditional beliefs, Yoruba- 60% Christianity, 36.38% Islam and 3% traditional African beliefs. The nature of the geographical spread of the two dominant religions has courted lamentations from close watchers of Nigeria's political processes (Falola, 1998). It is believed that the continued existence of "the religio-geographical polarization of Nigeria into the predominantly Muslim northern region and the largely Christian south ... without integrating the two units" (Falola, Ajayi, Alao & Babawale, 1994: 103) is an anathema to the future political stability of Nigeria.

In essence, an analysis of the religious situation in Nigeria, must not fail to acknowledge the correlation between religious differences and ethnic and regional differences. The North, which is dominated by the large Hausa and Fulani ethnic groups, is predominantly Muslim, with a sprinkle of Christians in such places as Kaduna, Kano, Sokoto (Zuru), Adamawa and the entire Middle-Belt. In the South, a combination of dominant Christians in the south-east and a most likely higher number of Christians in the south-west make the region a Christian enclave. Thus, when religious tolerance is stretched to the limits and violence ensues, the attacks soon become ethnically orientated. There have been series of instances when religious intolerance has led to attacks on Christians and their places of worship in the north, and a backlash coming in respect of direct attacks on the Hausa in the south, and vice-versa. In essence, the Hausa man is perceived as a symbol of Islam in the South,

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although much restrain is exercised in attacking the mosque as an institution, because quite a handful of south-westerners are also Muslims. On the other hand, the religious zealots in the north perceive every southerner as a Christian, thus, aside from attacking individuals; the churches are also burnt down, basically because very few northerners are Christians. In effect, it is sometimes difficult to distinguish religious violence from ethnic violence. On the long run, despite the numerous constitutional provisions prohibiting religious intolerance, religious zealots have always found it necessary to unabashedly pursue their aims of destructions which threaten the fragile foundation that the State was built upon.

A most fundamental trouble-spot for Nigeria's diversity is ethnicity. There have been divisions about the exact number of ethnic groups in Nigeria, but the most widely-used figure is two-hundred and fifty groups. An estimate shows that the three major groups; Hausa, Ibo and Yoruba make up, 29%, 20% and 20% respectively, while the remaining figure comprises the totality of the minorities spread across the length and breadth of the country. Despite claims that some of these groups had interacted even before colonialism politically merged them; they have more often than not been at loggerheads in their colonial and post-colonial interactions. Nnoli (1980: 97) claims that the thickening of ethnic identity is a colonial phenomenon initiated by the contradictions of the years of the Depression and the Second World-War. The political economy dynamics of the colonial period, specifically between 1928 and 1948 gave vent to the ethnicization of Nigeria's socio-political environment. According to Nnoli (1980: 97-106), the gestation of ethnic identity in Nigeria is not just a matter of heterogeneity, but can be located in the faulty manner of political and socio-economic relations initiated by the colonialists. In the end, ethnic identity reinforced the feeling of mutual suspicion and dominance that have characterized the Nigerian State till present. From another perspective, ethnic conflict is rooted in elite struggle for power, for it is convenient for the elite group to initiate and whip-up sentiment just to have access to power (Glickman, 1995: 12-13; Joseph, 1991). Furthermore, intolerance and lack of

mutual respect often dominate the relationships between settlers and hosts in some of the communities that have played host to the specter of ethnic-motivated violence. Rather than creating an atmosphere of peaceful coexistence, the ethnic jingoists and chauvinists fan the embers of rivalry and discord. Some of those that have occurred in the past include the Sagamu, Kano, Bodija and Idi-Araba Riots (Anifowose, 2006: 321). More recent inclusions in the infamous act are Bauchi (Boko Haram mayhem) and the Jos crises.

Despite the provisions of Article 41 (1) of the 1999 Constitution, efforts are often made to alienate settlers in the scheme of things, while sometimes settlers attempt to ride roughshod over hosts. In effect, the spirit of accommodation and tolerance were not considered in the series of ethnic violence that had occurred in the past. The damages have been tremendous; it had cost losses of human lives and material resources, in addition to unquantifiable loss of the spirit of 'oneness' that needs to be entrenched in a multinational society like Nigeria.

The challenges inherent in diversity are not peculiar to Nigeria; however, each State must adopt internal mechanisms for managing its diversity. In this wise, Fleiner (1996: 114) cautions on the use of transposing solutions from one State to the other, but advices on the necessity of synchronizing the peculiar circumstances of each State in any proffered panacea. The history, culture, values, politics, economy, etc, are important variables inducing conflicts, as such, their solution must be localized.

4. Minority Question

Within any plural arrangement, there is always a minority principally because of the existence of cross-cutting nature of labels in society. More complex though is the fact that within every minority, there is always a minority. No group is abundantly blessed across the broad spectrum in society, thus, there is always the tendency to be short-changed in dealings especially at the central level of governance. The consequences of leaving a section of the State bitter, while there is presumed advantage/prosperity in other(s) has encouraged the search for assuaging the

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minority in every possible way. The minority question refers to the nature of agenda-setting for minority groups in any society. Being less in number, they usually stand the risk of having their political voices stifled by the majority groups, especially in situations where the majority needs to prove a point by dominating the course of history. In societies that operate strictly on the basis of majoritarian ideology, the minority becomes a subordinate group whose members have significantly less control or power over their lives than members of a dominant or majority group. The minority question is present in all variables demarcating the differences amongst groups in heterogeneous societies; as Akinyele (1993: 87) intones, "we cannot eliminate or completely remove minority problem from a plural society". Thus, there are the religious, ethnic and language minorities.

The relationship among the various ethnic groups in Nigeria remains one of the fundamental issues in Nigeria's federalism. The ubiquitous nature of ethnicity can be gleaned from its impact on every aspect of social, economic and political lives. Ismagilova (1996: 25) comments thus:

> *"The ethnicity is seen in different spheres of life, viz., in the activities of parties, in functioning of the ruling bodies, in the army, in the social and economic field, in the sphere of culture, etc. the parties that were active in the past decades in the predominant number of countries were created, as a rule, upon the ethnic principle. Even with the introduction of multi-party system there have been few changes in recent years. The presently existing parties and organizations in reality express the interest of definite ethnic groups."*

Thus, "ethnic consciousness is a fact of reality which cannot be ignored" (Ismagilova, 1996: 32). In a similar vein, Tambiah (1994: 431) notes that:

> *"... ethnic affiliation and ethnic identity are overriding other social cleavages and superseding other bases of differentiation to become the master principle and the major identity for purposes of socio-political action."*

It therefore behoves any plural society to make attempt at integration such that all ethnic segments of the population would feel a sense of belonging in the whole. A contrary scenario would produce negative circumstances of immense proportions. This is more so for federal states which circumstance is aptly captured by Elshtain (1996: 64) that federal states are "haunted by Hebrew and Christian metaphors of a covenanted polity: The body is one but has many members". Elshtain (1996: 65) argues that it is incorporation in a single body that portrays the whole essence of plurality- for

> *"...we cannot be different all by ourselves. A political body that simultaneously brings persons together, creating a 'we', but enables these same persons to separate themselves and to recognize one another in and through their differences as well as in what they share in common."*

The ethnic minority question has dogged Nigeria's federalism since inception till date. The major and most forceful minority groups in Nigeria are found to be ethnic groups. These groups are found virtually within all of the major ethnic groups; and have continuously expressed their perceived insecurity ever since the creation of the federal arrangement, with its regional tripod basis. This perceived insecurity and marginalization is borne out of the overbearing influences of the major groups in national political affairs and the concomitant determination of the fate of the minority ethnic groups. They therefore sought for better representation in the governance process of the yet to be independent Nigeria.

The Nigerian experience clearly demonstrates the

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agony and frustrations of minority groups that were compelled to cohabit with majority groups who are constantly engaged in fierce competition for domination of the larger political landscape. The regions were too large, and consequently too powerful; "majority ethnic group in each region is colossally larger than the ethnic minorities" (Awa, 1964). This situation makes the minority politically insecure. In effect, the minority groups become pawns on the chessboards of the domineering majority groups. The minorities never appreciated the situation they found themselves all through the period of colonialism, and the perceived debilitating condition became worse with the creation of three strong regions, and the subsequent commencement of self-rule. The fear of what independent Nigeria held for the minority group became the driving force for agitation. Eventually, the Sir Henry Willink's Minority Commission was set-up to assess the position of minority groups in Nigeria, vis-à-vis the majority groups and offer suggestions and recommendations on how the situation could be improved, if need be. After its sitting, the commission outrightly disagreed with the notion of creating more regions as a remedy to the conditions faced by minority groups, and instead, recommended a more expansive role for the government at the center, to counter-balance the possible domination of the majorities over the minorities within their regions.

The minorities were dissatisfied with the conclusions, and resumed their agitation after independence. Eventually, a positive response was received with the creation of the Mid-Western Region in the 1963 Constitution. Subsequently, successive military administrations undertook state creation efforts beginning from 1967 for their own political reasons, but also for the benefits of the minorities. The overriding principle has been the political empowerment of groups in Nigeria, and by extension, economic and social development. However, the economic non-viability of some of these states calls to question, the logic of their creation (Osaghae, 1992).

Instructively, the creation of more states has yet to remedy the problems of the minority. The 'swan-song' has become the marginalization of the minority in every facet of national life. Hence, there is some sense in the restrain

exercised by the first minority commission in the minorities' quest for more states. In order to stem the tide of rancorous agitations from the minority groups, the Nigerian State must endeavor to settle problems to the mutual satisfaction of both majority and minority. A plausible way to do this is to ensure "*all* respective groups within feel themselves as 'winners'" (Fleiner, 1996: 92-3). The probable way for feeling like winners is contained in Fleiner's (1996: 92-93) methods of protecting minority rights at the constitutional level. These are:

    a.   Granting autonomy and independent development;

    b.   Protection of individual rights;

    c.   Special rights for representation in state organs, and;

    d.   Support of and respect for cultural identity as well as;

    e.   Acceptance of the value of pluralism by the state.

       The absorption of these methods in the Nigerian system would guarantee a greater level of acknowledgement of 'Nigerianness' by the ethnic minorities. A major step in this direction is the institutionalization of the "Federal Character Principle" (Ayoade, 1998: 101) which portends to provide a sense of belonging for all Nigerians in respect of opportunities for representation in everything federal, thus foreclosing the chances of marginalizing the minorities. Towards this end, Article 153 (1C) of the 1999 Constitution includes the establishment of the Federal Character Commission among other related commissions and councils. The composition of the commission is in itself an exemplary version of plurality accommodation. Through this commission, government attempts to assure all and sundry-either minority or majority, adequate representation in the governance of the State. This is made possible through the states within whose confines exist the minorities, who have the opportunity to negotiate with the majority about individuals or groups chosen to represent them at the federal level. The process is however not without its own hitches, such as mediocrity, reinforcement of ethnic jealousy and animosity, complexity of minority within minority, etc. The most grievous hitch as identified by Akinyele (1996: 89) is that "the implementation of the Federal Character has

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heightened the fear of sectional domination in Nigeria". A reversal of the trend has however become impossible as a result of "the reluctance of the operators to the path of justice and equity" (Akinyele, 1996: 89). The author specifically recommends the emergence of quality leadership, rather than the restructuring of the Nigerian federation as "the most crucial factor in the resolution of the Minority Question" (Akinyele, 1996: 92).

5. Constitutionalism/Constitution-Making

Constitutionalism refers to the extent to which both the government and the people defer to the dictates of the constitution. In effect, while the constitution ensures that actions of governments and those of citizens are carried out within the limits provided for by the laws of the land, constitutionalism measures the extent to which the government obeys the constitution. According to Mcllwain (1966: 21) "constitutionalism is said to embody one essential quality: it is a legal limitation on government, or the antithesis of arbitrary rule such that constitutional government is, by definition, limited government". Constitutionalism also implies a balance between the power of the government on the one hand and the rights of individuals on the other. It is an agreement signed between the people and their government, stating explicitly, the expectations of the people, in respect of the duties and responsibilities of government. Li (2000) presents a comprehensive explanation thus:

> *"... constitutionalism (as a descriptive concept) means a system of political arrangements in which there is a supreme law (generally called "constitution"), in which all (particularly the entire system of government) is governed by the supreme law, in which only the people's will (as defined through some pre-specified institutional procedure, usually through a super-*

> *majority voting mechanism) can supersede and change the supreme law, in which changes can only be made infrequently due to the difficulty of garnering the requisite popular support, and in which there are separation of power, checks and balances and an independent judiciary dedicated to legal reasoning to safeguard the supremacy of the constitution."*

Constitutionalism is the limitation of <u>government</u> by <u>law</u>, and the whole process of arriving at the limitations. It can therefore be perceived as the method of evolving, adopting and conforming with the dictates of the State as stipulated in the constitution by both the citizenry and the government. This gives credence to Ramcharan's (1998: 8) submission that constitutionalism is focused on control issues. These issues are highlighted as the process of constitution-making and the extent to which it is popular and democratic and the availability of openings, institutions and processes of making the constitution a living document by taking it to the people so that they are in a position to not just have access to it, but also understand it, claim ownership, and deploy it in the defense of the individual and collective rights and the democratic enterprise. Thus, a flagrant disregard for the essence of constitutionalism leads to a faulty and conflict-generating constitution.

Taking a cue from Ramcharan's (1998) position, Nigeria has found itself within the web of an unsavory constitutionalism process. Ever laying claim to a federal constitution, except for the short-lived introduction of the Unitary Constitution by the Major-General Aguiyi Ironsi regime in the first half of 1966, Nigeria is yet to follow the dictates of constitutionalism in its constitution-making processes. Perhaps, the federal constitutions are in of themselves perfect, but as Wheare (1963: 20) rightly observes:

> *"A country may have a federal constitution, but in practice it may work that constitution in such a way*

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that its government is not federal."

The twin interrelated problems with all of Nigeria's constitutions are the alienation of the people in the constitution-making processes and the flagrant disregard for the people's well-being in the working of the constitutions. In other words, the people are not allowed ownership of the constitutions.

Beginning from the 1954 constitution, the Nigerian government has produced seven federal constitutions and the short-lived Unitary Constitution of 1966 (1954, 1960, 1963, 1979, 1989, 1995 and 1999), although the 1989 and 1995 constitutions did not see the light of day. Arguably, all of the constitution-making processes; whether civilian or military initiated, alienated the most critical segments from the processes. The 1954 Constitution, which was the first to be presumably produced through massive input from the generality of Nigerians, emerged from the exertions of two constitutional conferences in London and Lagos respectively, organized along political party lines. At that point in time, the political-parties and traditional authorities were the only constituencies through which the people were represented. Thus, the representatives to the various conferences were composed of political gladiators and traditional authorities which required no direct or democratic input from the rest of the populace. According to Oyediran (2007: 27): "The London Constitutional Conference of 1953 was the first one ever in which leaders of political parties and their supporters were invited with the sole purpose of making a constitution for Nigeria". It was under these circumstances that the constitutions were foisted on the people. Even when preliminary works had been concluded on the constitutions, there were no allowances for referendum to test the popularity of the decisions that were reached. In fact, the processes of initiation and adoption of the 1960 Independence constitution did not fare better. However, the process of the 1963 Republican Constitution was a slight departure from the earlier ones, as far as initiation and adoption were concerned. The constitution came into being through the efforts of the All-Party Constitutional Review Conference that was organized on the heels of wide-spread

discontent with the overriding interest of Britain in Nigeria, despite having gained independence three years earlier. More particularly was the decision of the Privy Council to reverse the decision of the Supreme Court of Nigeria regarding the premiership suit in the Western region. It was organized along party-lines and more importantly, adopted by the parliament.

The 1979 Constitution was fundamentally different from the earlier ones on the basis of being initiated by the military institution. Its processes commenced in 1975 when the military government selected members of the Constitution Drafting Committee. The fifty member committee (Chief Awolowo declined to serve) produced an initial draft which was meant to have been views retrieved from memoranda that had been submitted by individuals, interest groups, etc. The selection/appointment process was undemocratic and unscientific; it was conducted on the basis of two representatives from each state, in addition to individuals from academia. The unrepresentative nature of the committee is highlighted in Gboyega (1988: 244). Following this, there was a public debate before it was presented to the Constituent Assembly (composed of both elected and government-appointed individuals), after which amendments were made, and submitted to the highest ruling organ of government, the Supreme Military Council. A remarkable point to note is that government clearly defined 'no-go' areas for members of the Constituent Assembly. These were areas deemed too volatile to be considered for deliberation by the members of the Constituent Assembly as a result of its implications for national interest and security.

The processes of the 1999 Constitution did not detract from the usual practice of subversion of the people's will. Unarguably, prevailing circumstances at that period would not have allowed for an elaborate and prolonged period of constitution drafting arrangement. The government hurriedly put the task before a twenty-five member constitutional debate and coordinating committee, with the task of organizing a debate on the possibility of adopting the still-birth 1995 Constitution. It should be recalled that General Abacha had organized a National Constitutional Conference, which brought together, three hundred and sixty-nine members, majority of whom were nominated by the regime,

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and at the end, produced the 1995 Constitution which was never put into use.

Thus, the succeeding regime organized public workshops and symposia on the feasibility of adopting the 1995 draft constitution. According to the government, the feelers was that majority of Nigerians preferred a review of the 1979 Constitution. Consequently, a draft constitution was produced on the basis of this new constitution and was submitted for vetting to the Provisional Ruling Council (the highest organ of the ruling military junta). After a supposedly thorough vetting, ostensibly in consideration of the national-interest, the new constitution was signed into law through Decree 24 of 1999, on the 5th of May 1999. Indeed, this was equally a far-cry from what is expected from a people's constitution. The process of its guarded birth makes it nothing more than a document dropped on the laps of Nigerians by a disgruntled military cabal. Ihonvbere (2000) complains that "the country has never adopted a participatory or process-led approach involving the various nationality groups and the various communities, constituencies and interests that make up the country in compacting its constitution".

In the final analysis, some major points have emerged in the tenets of constitutionalism and constitution-making process in Nigeria. The first of the factors is connected with the faulty nature of the emergence of all of Nigeria's constitutions to date. If the fact of being a colony (and therefore manipulated by the imperial lord) in the first attempt at a federal constitution is accepted as the basis for its faulty foundation, the same reason cannot be presented for similar foundations of succeeding constitutions. Put poignantly, the absence of people-participation and indeed the component units, in the drafting processes of the constitutions would always have negative impact on its workings.

Secondly, quite a number of Nigerian constitutions were handed over by a 'third-force'- the military. It is ironic that an undemocratic institution would provide the basis for democratic practices. Aside from its numerous negative effects, the military origin of the constitutions has continually impacted negatively on both the horizontal and

vertical relationships in government circles. This is usually evinced in concentration of power at the center and the 'almighty' roles allocated to the executive arm of government. These acts are a negation of federal principles. Moreover, the process of amendment in Nigeria is cumbersome and contradictory, mostly unfair and unjust and primarily to serve selfish political interests.

Finally, the wanton disregard for constitutional processes in Nigeria has defeated the aim of constitutionalism. In recent times (1999-2007), the executive arm of the federal government has been the most culpable of this crime, and somehow, the art of executive lawlessness is being entrenched and institutionalized in the country. For instance, there has been evidence of recklessness in the actions of the federal government towards the component units more especially, beginning from 1999. The situation became so terrible that the Yar' Adua administration made the observance of the rule of law as a cardinal objective, as if, it has a right to do the contrary. A depiction of reality produces a contradictory case for Nigeria. For here is a country that lays claim to democracy and federalism, but cannot fulfill the basic requirements of both the governmental and political systems. The problem is not about the absence of a constitution, but the wanton disregard for its contents. The root can be located in the nature of emergence of the constitution. Thus, in order to assure due respect for constitutionalism in Nigeria, a people's constitution must be created; based on the actual and real contribution of the people, so as to ensure that power and sovereignty reside with the people. Ihonvbere (2000) advises that "there ought to be a more inclusive process of constitution-making such that would validate the opening statement of all past and current constitutions, viz: 'We the people …'". In addition, the component units must participate fully in the initiation and adoption processes of constitution-making; the question should not be how long it takes to make a constitution, but the legitimacy and commitment to the spirit and letters of the constitution must be held sacrosanct by all stake-holders. In essence, the process of emergence should detract from the farcical processes of the past, to be replaced by a direct participatory process. This should be in form of a colloquium composed of

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the various segmental cleavages as agreed to, by the people. The result of such gathering should be adopted through a referendum, which would determine its acceptance by the generality of the people and the component units. Through this process, there is a guarantee for the control measures of constitutionalism to be in place. The political system would consequently be imbued with mechanisms for stalling the antics of errant political actors. For a multinational State, there is no alternative to upholding the principles of constitutionalism.

4. Conclusions

The foregoing sections of the paper have thematically dealt with the Nigerian federation (as a political system). The paper demonstrates that the pluralistic peculiarities of Nigeria are one of the fundamental explanations for the adoption of federalism; basically because of its perceived in-built mechanism for accommodating divergent origins and culture. The mechanistic orientation is embedded in the ability to provide the structures and processes for attaining a sense of unifying diversity amongst distinct groups coalescing together.

With the aid of critical variables, the paper submits that the strength of federalism as a nation-building tool and an integrative mechanism has not been properly applied ever since its adoption in the 1954 Nigerian Constitution. Over the years, the structures have been damaged and the processes have become bastardized. Finally, it is suggested that the starting point for Nigeria remains the initiation and eventual adoption of a people-oriented federal constitution geared towards restructuring and reforming the political processes.

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