

A COMPARATIVE ANALYSIS OF THE FEDERAL SYSTEM IN USA AND NIGERIA AND ITS IMPACT ON NATIONAL UNITY AND DEVELOPMENT

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Abstract

This paper compares the federal system in two countries: Nigeria, a developing country and the United States of America (USA), a developed country. The subject examined is true federalism as it affects national unity and development. In order to achieve our aim, the following areas were explored in the literature review: the concept of federalism, the evolution of federalism, division of powers in federal states, revenue allocation and resource control in federal states. Relevant variables such as, democracy, independent judiciary and a powerful legislature were also examined as prerequisites for the existence of true federalism in a political system. Four research objectives and questions guided the study. The theoretical frame work for the study was hinged on K.C. Wheare's Theory of Federalism. The work is purely qualitative, (doctrinal method of research) as only secondary data were used for the entire study. The research findings revealed that, the American federal system of government is more ideal and that Nigeria can borrow a lift from the USA if it desires to experience true federalism, which guarantees national unity and development.

Keywords: *True Federalism, Revenue Allocation, Resource Control, Political System, National Unity, Development.*

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1. Introduction

Background to the Study

The subject of true federalism has been a pressing issue in Nigeria since the civil war. The grievances of the aggrieved parties in that war still linger today. There are imbalances in the distribution of the national wealth and ownership of natural resources is yet to be fully resolved,

a federal constitution establishing a federal government. Examples of such states are Nigeria, USA, India, Russia, and so on (Dibie, 2018). Lazarus (1998) argued that in recent years, the clamor for true federalism has risen to crescendo, in some quarters there is the agitation for restructuring, resource control, secession based on religious and ethnic lines, a sovereign national conference, while in others, it is the cry for reparations for crimes committed during the civil war. Although the elections held recently were riot stalled by these issues, they all the same point to the fact that the Nigerian Federal system is seriously threatened, and if urgent steps are not taken by the powers that be the cracks in the wall may become holes too big to fill (Abba, 2008). This forms the background of this study.

Statement of the Problem

Since over sixty years of the existence of federalism in Nigeria, there is still the contention as to whether or not Nigeria is truly practicing an ideal federal system of government. To some, Nigeria is practicing quasi-federalism, whereas to others Nigeria is a unitary system that disguises herself as a federal system (Sagay, 2004). The study seeks to identify those factors or variables which provide for true federalism. Put differently, we want to know the kind of political environment in which true federalism can blossom and thrive. In order to do this, the study will take a comparative study approach. This comparison holds the Nigerian system on one hand and the American system on the other.

The United States of America is seen today as the model of true federalism, a system which evolved after the revolutionary war of the eighteenth century. This study highlights the ideals and institutions which make for true federalism in that particular political system, these, vis-à-vis the elements that exist in the Nigerian Political system which either hinder the evolving of the true federalism or have actually helped to pave the way for it. We shall work with the following objectives.

Objectives of the Study

This study can be better appreciated if we endeavor to elucidate its aims or objectives. These are outlined as follows:

- i. To identify the historical root of the present form of federalism in Nigeria and that of the USA

- ii. To identify areas of imbalance in the Nigerian political system especially in the aspect of the distribution of the nation's wealth
- iii. To investigate and identify those elements in the American system which have helped to establish and sustain true federalism in that country
- iv. To examine variables like democracy, independent judiciary and a powerful legislature as prerequisites for true federalism to exist in a political system
- v. To present an articulate framework for establishing true federalism in the Nigerian political system.

Research Questions

The under-listed research questions will guide the study:

- i. What is the historical root of the present form of federalism in Nigeria and that of the USA?
- ii. What are the areas of imbalance in the Nigerian political system especially in the aspect of the distribution of the nation's wealth?
- iii. What elements in the American system have helped to establish and sustain true federalism in that country?
- iv. How have variables like democracy, independent judiciary and a powerful legislature fostered true federalism to exist in a political system?
- v. How can we articulate a framework for the establishment of true federalism in the Nigeria?

Scope of the Study

The study compares two political systems, that is, the federal system of the United States of America and that of the Federal Republic of Nigeria, within these two systems, the study is restricted to a comparative study of the workings of the democratic principles, the power exercised by the judiciary and the legislature. These three variables of democracy, judiciary

and legislature form the limits of the study, because the analyses revolve mainly around them. Conclusions on these analyses will help to answer our research questions.

Significance of the Study

This study is significant in many respects, some areas of significance have been mentioned earlier, one is the present clamor in the country for restructuring, resource control, secession based on religious and ethnic lines, a sovereign national conference, the other is the agitation in some quarters for reparations as compensation for crimes committed against them during the Nigerian civil war (1967-1970) (Dibie, 2018). These issues require urgent attention from the Federal Government because they touch on the very foundation of the Nigerian Federation.

The study is equally significant because if we claim to have adopted the American system of federalism, we have to also enlighten ourselves on the peculiar features of that system in order to identify areas where we have fallen short in practicing the ideal federal system. This of course will take into account the peculiar situation of Nigerian as a nation.

2. Methodology

This work is a qualitative research. It applies the doctrinal method of research, thus secondary data is entirely used for the study. Therefore the work entails a comparative analysis of the various literatures on federalism using case law, textbooks, law reports, journal articles, constitutions, statutes, law dictionaries and so on.

3. Literature Review and Theoretical Framework

The American Federal System: Historical Perspective

The United States of America (USA) is the richest country in the world today, with investments in virtually every nation and continent of the world. Geographically, the USA is the fourth largest country in the world after the defunct USSR, China and India. It is also the third most populated country in the world. It is made up of fifty (50) states, fourteen-eight (48) of which occupy the central part of North- America, Alaska; the fourteen- nine (49th) state, lies in the north-west of North America, while Hawaii the fiftieth (50th) state, is a chain of pacific islands. The USA is a major industrial and economic force since 1945; it has also played a leading role in world affairs.

With a land mass of 3,618,768 Square Miles and a population of 256.6 million people, the USA is a sub-continent. The North American continent is thought to have been discovered around AD 1000 by Vikings under the leadership of Leif Ericson, but the existence of the New World was not known for certain by Europeans until the Voyage in 1492 of Christopher Columbus. There were probably more than one million American Indians at that time in what is now known as the USA. Spain began to colonize Florida in 1565 and extended its control over much of Texas and the West.

France explored from the great lakes down the Mississippi to Louisiana. After Sir Walter Raleigh had failed in his attempt to found a colony in Virginia between 1584-1589, the first permanent English settlement in North America was established there in 1620.

Miami and New Hampshire were settled in 1622 by a chartered Connecticut in 1635 and Rhode Island in 1636. These colonies together with the Dutch and former Swedish colony were conquered by the English in 1664. In this way the thirteen colonies of the American sub-continent were established. After series of wars among the colonial powers Britain gained control over the thirteen colonies. This was as a result of the treaty of Paris between Britain and her arch-rival France, signed in 1763.

However, insensitive and draconian policies by the British led to the Revolutionary War which broke out in 1775 and lasted till 1783. The thirteen colonies adopted the Declaration of Independence on the 4th of July, 1776. The colonies united as the USA under the Article of Confederation signed in 1781. This was superseded later in 1787 by the constitution of the United States of America. The constitution greatly increased the power of the Federal government; this was the actual birth of federalism in the United States (Reagan, 1972).

George Washington, the leader of the American Colonies during the war became the first president of the USA, from 1789-1797. The disagreement between two of the founding fathers of American federalism; Hamilton and Jefferson, over how much power the federating states should have led to the development of a two party system. The two were the Federalists and the Anti-Federalists. In foreign policy, the federalists tended to be pro-English, while the Anti-Federalists tended to be pro-French (Friedrich, 1968).

As the Industrial Revolution made its influence felt, communication and industry were developed. By the 1840s, the population had risen to seventeen (17) million people. Abraham

Lincoln was elected as president of the USA in 1860, and the civil war broke out in 1861. The war ended in 1865 in favor of the federal government in the North. The confederacy of the south was crushed Lincoln's Emancipation proclamation abolished slavery in 1863. in the reconstruction, rehabilitation and reconciliation period which followed, the war damaged areas of the south were slowly repaired and industrialization began (Livingston, 1956). .

When the Second World War (1939-1945) broke out, the USA remained neutral but to gave assistance to Britain in 1941. After the Japanese attacked Pearl Harbor in that same year, the USA declared war on the axis countries i.e. (Germany, Japan and Italy) industry was organized for the war production and huge war effort was made. The USA developed the atomic bomb, which was used on Japan, precisely on the cities of Hiroshima and Nakkasaki, Bringing the war to an end in 1945. The USA took a leading role in the setting up of the United Nations Organization (UNO) in that same year and supplied aid to war ravaged Europe under Marshall Plan (1948-1952) Vile (1961).

The Nigerian Federal System: Historical Perspective

In the opinion of Mackintosh (1962) the scramble and the partition of West Africa by the European nations served as the origin of colonial administration in West Africa. With the exception of Liberia, the whole of West Africa countries came under the colonial rule of Britain, France, Germany and Portugal. This was as a result of the partition of West Africa which took place during the Berlin conference of 1884/85. By 1900, Britain had established political influence in her four (4) colonies of Nigeria, Gold Coast (now Ghana), Sierra Leone and the Gambia (Watts, 1966).

The elective principle was first introduced into the Nigerian colonial system through the Clifford Constitution of 1922. Sir Hugh Clifford, after whom the constitution was named, succeeded Lord Frederick Lugard. It has been said that one of the problems of the Clifford constitution is that it reflected the British policy of "Divide and Rule" Isolating the Northern provinces despite the 1914 Amalgamation (Azaiki, 2003).

The Richards Constitution of 1946 replaced the Clifford constitution because of the defects of the latter, the Nigerian nationalists pressurized Sir Bernard Bourdillon, Governor of Nigeria from 1935 to 1943, to give the country another constitution. It was Bourdillon who split Nigeria into three (3) regions of North East and West in 1939. It was the memorandum prepared by

Bourdillon on the future political development of the country that formed the basis of the Richards Constitution.

Richards Constitution laid the foundation for federalism and federal constitution in Nigeria. The constitution integrated the North and South, laying the foundation for national unity. Despite its merits, the constitution had the problem of producing regionalism into Nigerian politics which has remained a major problem in this country. The Nigerian nationalists vehemently criticized and subsequently rejected the constitution, because they were not consulted during the drafting (Dudley, 1963).

As a result of the criticisms leveled against the Richards constitution, it was later replaced in 1951 by the McPherson Constitution. This constitution, among other things allowed for an increase in the elected majorities in both the central and regional legislatures granting more powers to the regions than the Richards Constitution allowed. But the McPherson constitution had many defects. One is that it did not make provision for the posts of prime minister and premier. Another is that it did not grant real ministerial responsibilities to ministers, who merely acted as spokesmen of the ministries.

The decisions arrived at in the 1953 London and the 1954 Lagos Constitutional Conferences which were published and came into effect in October 1954 constituted the main provision of the Littleton constitution of 1954. This constitution could be said to be the first federal constitution of Nigeria because it adopted a federal system of government. The Lieutenant-Governors of the various regions became known as the Governor-General of the federation of Nigeria. The constitution marked the formal beginning of the federal system government in Nigeria.

The Littleton Constitution was replaced by the independence constitution of 1960, which came into force on October 1st 1960. The new constitution made Nigeria a full-fledged sovereign state within the Commonwealth of Nations. It retained the federalism previously adopted by the Littleton Constitution. It adopted a parliamentary democratic system of government for Nigeria. Bicameral legislatures were established in both the federal and regional governments. The executive powers were conferred on the prime minister at the federal level and the premier at the regional level (Carnell, 1961).

One of the greatest advantages of the independence constitution is that it marked a turning point in the struggle for self-determination and emancipation of Nigeria from the bond of colonialism. Another advantage is that as a sovereign state, it marked the beginning of a new diplomatic era in which Nigeria joined international organizations such as the United Nations Organization (UNO).

In 1963 Nigeria broke off from British Crown, thus becoming a Republic. This necessitated the introduction of a new constitutional the Republican Constitution, which was passed into law by the federal parliament on September 1st 1963, thus, the Queen of England ceased to be the Head of State of Nigeria.

The Concept of Federalism

It is important to begin by first clarifying the concept of federalism, There is no universally accepted definition of federalism. Like most writers, we shall begin our examination of federalism with work of the leading scholar on federalism K.C. Wheare in his book; “Federal Government” K.C. Wheare viewed federal government as a constitutional arrangement that makes for the division of powers and functions between two levels of government.

According to KC. Wheare (1963) the distinctive feature of a federal system is:

...An association of states so organized that power are divided between a general government, which is certain matter is independent of the government of the associated states, and, on the other hand, state government which in certain matters are, in their turn, independent of the general government (Wheare, 1963).

This definition of federalism contains the principal defining characteristics or principles of federalism these are:

- a) Division of powers between two levels of government, that is, between a central government and several regional or state governments.
- b) A written constitution showing this arrangement.
- c) Coordinate supremacy of the two levels of government, that is, no level of government is superior to the other. Neither the central nor the regional government are subordinate to each other but rather the two levels of government coordinate and independent.

Wheare (1963) added that, any system of government that does not conform to the above principle has no claim to call itself federal. In his words:

“I put forward uncompromisely a criterion of federal government- the delimited and coordinate division of government function and I have implied that the extent to which any system of government does not conform to this criterion it has no claim to call itself federal”

In addition to describing the federal principle as the “ method of dividing powers so that the general and regional government are each, within sphere coordinate and independent” Wheare came up with the concept “True Federalism” He define true federalism as one in which neither level government must be in a position” to override the terms of agreement about the power and status which each is to enjoy each government should be limited to his own sphere, and within that sphere should be independent of the others”

A number of scholars such as S. Egite Oyovbaire, W.H. Riker, Carl Friedrich, William Livingstone and others have criticized Wheare’s formulations for its over emphasis on legal and constitutional provisions, for being inflexible, and for using the U.S.A. as a paradigm of federal government, as Oyovbaire argued “ it may be the case that the definition of federalism must include the United states of America but it is simply not true that any federal system which is unlike American political life is thereby condemned a unreal”

Principles and Features of Federalism under the United States Constitution

Aguda (2000) affirmed that, the contemporary expression federal government is often traced to the framers of the United States Constitution of 1787. Scholars using the United States Constitution have identified some general principles of federal government, these are:

- a) An independent country from the point of view of international relations and law is provided with a set of institutions required for the work of government and having authority over the whole of the country. The set of institutions represent the centre.
- b) The country is divided into a number of geographical areas each of which is also equipped with a set of institutions for the act of government in that area. The set of institutions represent the region or state

- c) The power to govern is distributed between the centre and regions in such a way that each of the governmental institutions has direct impact on the individual citizens and other legal persons within its area of competence
- d) The distribution of competence between centre and regions is affected by a constitution (usually written) having a fair degree rigidity, so that its basic terms are “entrenched” that is, cannot be amended at the sole discretion of the centre or any region or combination of regions. This implies the inability of a region to secede, unless the provisions of the constitution specifically authorize such a step.
- e) The constitution provides rules to determine any conflict or authority between centre and regions, where but for the conflict the activities in question would have been within the competence of each of the conflicting authorities. Theoretically, the rule would favor either region or centre. In all known cases the general rule is that the centre law prevails
- f) The distribution of competence between centre and region incorporated and policed by a judicial authority, which can make authoritative determinations as to the validity of governmental acts (including legislation) where these are alleged to be beyond the competence of the centre or region.

While these principles are more or less universal, there are some features of federalism in the United States’ Constitution which have influenced the development of newer federations: sometimes by direct limitation and often times when similar political pressures had to be accommodated. Some of the important features of the American Federalism include the following:

- Representation of the regions in the centre government: A strong national feature was the direct election of members of the lower legislative chamber, the House of Representatives, by the people in proportion to their members. The senate had a completely different arrangement. In the senate or federal upper house each region had two representatives, elected then by the state legislators and now directly by the people of each region. The requirement of equal representation of regions in the senate was put beyond amendment save with the consent of an affected region. In essence, the Senate represents the states and House of Representatives represent the people.

- The constitution of the regions or states was retained but the centre government to guarantee that they remained republican: It is important to emphasize that the retention of existing state constitutions was a natural consequence of American's Con-federal history. It helped a great deal to simplify the task of the federalists since they did not have to grapple with the problems of region constitutions. This development was possible only because regions in fact had constitutions, which were not unduly diverse in nature or seriously inconsistent with the federal constitution.
- Allocation of defined powers to the centre, leaving the undefined residue of powers to the regions: This approach was very rational and consistent since confederations independent states would normally cede only a few carefully defined powers to a common organ. It is important to note that there are several other techniques of allocation, such as express list for both exclusive list for the centre and regions, it is important to bear in mind also that the choice or technique for allocation of power between the centre and regions is dictated by politics.
- The inclusion of guarantees against centre discrimination in dealings with the regions:

Certain aspects of taxation were required to be uniform. No one state port was supposed to be given preference over the ports of another state. The issue of federal fairness has been spelt out more meticulously in other subsequent federal states.

- There are certain principal central powers: These had to do with foreign and inter-state commerce, defense, naturalization, bankruptcy, coinage, standards of weights and measures ports, patents and copyright, etc. the allocation of powers. To the centre was bold and toward looking and provided the minimum list or starting point for all subsequent draftsmen. It is now generally accepted that all matters not expressly or by nature exclusive would be concurrent.
- The inclusion of guarantees against region discrimination in relation to other regions:

All regions were required as a matter of principle to respect each other's public acts and judicial decisions. Besides they were also to accord privileges and immunities to citizens of other regions equally with their own.

- Financial Provision for centre and regions: Centre and regions were in general accorded concurrent powers to raise any form of tax. However the regions were prohibited from levying import and export duties more than that no government was permitted to levy duties on exports from region to region.
- The inclusion of fundamental guarantees for individuals: The Philadelphia Draft Constitution, which was largely accepted, contained some fundamental guarantees for individuals for instance; trial by jury, no expose tact to laws, etc. Many more guarantees were added by the first term amendment passed in 1791. These provisions were referred to as Bill of Rights.
- Provision for admission of new regions: The understanding then was that no existing region might be spilt or merged without its consent. However, the centre was empowered without reference to existing regions to admit, ne territories as regions. In practice however its possible effects were much reduced by judicial interpretation, which required new regions to have the same status and power when admitted as the existing ones.
- The creation of a centre supreme court: With special responsibility for issues arising under the constitution and under federal law, or having an inter-state character the jurisdiction granted to the supreme court of the USA was exceedingly narrow- cases involving foreign diplomats and in which a region was a party. Otherwise its jurisdiction was appellate only.
- Amendment of the constitution: The process of amendment had two methods of initiation and two methods of ratification initiation could be by two- thirds ($\frac{2}{3}$) majority in both legislative houses, or by a peoples convention called on the application of two- thirds ($\frac{2}{3}$) of the regional legislatures. Ratification could be by approval of the legislatures in three- fourths of the regions, or by separate conventions in three- fourth of the regions.

Principles and Features of Federalism under the Nigerian Constitution

The federation of Nigeria is a conglomeration of small semi-autonomous states which came together to form stronger state for many reasons. The powers of the government are shared between central and regional/state authorities (Akande, 2000).

In Nigeria, the constitution gives exclusive powers to the central government to legislate on certain areas such as defense, foreign exchange; and so on (CFRN, 1999). The concurrent legislative list shows areas where both the central authority and the states can both legislate but where there is conflict of interest the central authority overrides the powers of the state. Such areas are industry education, research. Residual list is a list of areas preserved exclusively for the component units of the federation to legislate.

The 1979 Federal Constitution of Nigeria which provisions are replicated as the 1999 Constitution is a constitution modeled in line with the American Presidential system. It has the characteristics and features of the presidential system. According to the 1979 Constitution, there are certain features which make this constitution unique.

- **Supremacy of the constitution:-** This constitution is supreme and all its provisions shall have binding force on all authorities and persons throughout the federation of Nigeria consisting of 21 states (now 36 states). Control of the government in Nigeria must be in line with the provisions of this constitution this means that coup is outlawed in Nigeria.
- **Powers of the Federation of Nigeria:** Part two 4-12 deal with the powers of the republic such as legislative, executive and judicial powers are vested in certain persons or group of persons. Other features include the local government system, the prohibition of state religion public order and security etc.
- **Fundamental Objectives and Directive principles of state policy:** It shall be the duty and responsibility of all organs of government, authorities and persons exercising legislative executive or judicial powers to conform to, observe and apply the provisions of the constitution.
- **Fundamental human Rights:** The Constitution enflamed the fundamental human rights as in the republican constitution sections 30 to 42 and sections 33-46 of the 1999

constitution deal exclusively on human rights. These rights include among others right to life, right to dignity of human person, right to personal liberty, right to fair hearing, etc.

- Amendment of the constitution: The 1999 constitution of the Federation of Nigeria stipulates in section 9 (1) - (4) on the mode of altering the provisions of the constitution; that the National Assembly may subject to the provision of this constitution.
- Powers and Control over Public Funds: Sections 80 (1)-(4) and 81 (1)-(4) of the 1999 Constitution of Nigeria stipulates that; All revenues or other moneys raised or received by the Federation (not being revenues or other moneys payable under this Constitution or any Act of the National Assembly into any other public fund of the Federation established for a specific purpose) shall be paid into and form one consolidated revenues fund of the Federation. And S. 81 (i);The president shall cause to be prepared and laid before each National Assembly at any time each financial year estimates of the revenues and expenditure of the Federation for the next financial year.

Centralization of Revenue Sharing System

A fundamental factor in the expansion of the financial influence and responsibility of federal government was the transformation of the revenue sharing system. Changes in the nature of federal financial relations were among the most striking feature of nearly thirty years of military rule in Nigeria. The first was the Consolidation of the financial position of the federal government primarily a result of the phenomenal growth of petroleum profits tax. A second and even more significant feature of changes in federal financial relations during this period was the systematic reduction of reliance on derivation as a principle of revenue sharing. Specifically, mining rents and royalties were increasingly transferred not to the regions of derivation but to the Distribution table Pool Account (DPA). On the whole, the period of military rule in Nigeria witnessed the enthronement in the theory and practice, of revenue sharing regime which subordinate the interest of the parts to that of the whole and therefore reinforced the general movement in the direction of a tightly snuff federal system (Dobie, 2018).

Promotion of National Unity and Development

The mobilization influence of the civil war and more importantly the structural transformation of Nigeria from a peripheral to a centralized federal system produced outcomes that are

concretely supportive of greater national integration indeed very few could deny that the military left the nation better united than they met it and that their reorganization of the Nigerian federation as created many vested interests in national unity particularly among ethnic minority elites. Osai (2002) argued that practical development can only be attained in a political system where peaceful coexistence is guaranteed amongst the diverse people in any given state.

Resource Control in Federal States

Why is it that some federal states, natural resources are owned and controlled by the federal government while in other they are owned and controlled by the government of the constituent states in which resources are found? The issue of resource control which is one of the most fundamental in federal states is often neglected (Lazarus, 1998). To answer the question, we shall analyse the position of resource control in Nigeria and USA that contrast sharply in the area of natural resources ownership and control. In Nigeria natural- mineral oil and gas- are owned and controlled by the federal government while in the US.A. They are owned and controlled by the government of the constituent provinces where the resources are found (Dada & Osim, 2007).

Objections may be raised to the comparison of Nigeria and USA on grounds that Nigeria differs from USA in a number of important respects. For instance, USA is a developed and more democratic country while Nigeria is an underdeveloped country ruled by the military for nearly 40 years of the Four years since independence. There are also geographical and cultural differences. The basis of comparison is that both the central argument is that how federalism developed determined to a large extent the level of government that controls natural resources. Furthermore, that once ownership and control of natural resources is constitutionally assigned to one level of government at the formation of a federal compact it becomes increasingly difficult, for geo-political reasons, to transfer ownership and control to another level of government (Maxmahon, 1955).

Division of Powers in Federal States

A federal system by definition implies the existence of two levels of government: a central government and state or provincial governments each exercise its own separate powers. As in the United States a federal system also implies equal constitutional standing and privileges for all the component parts broadly speaking division of legislative power is based on the federal

principle that matters of a general interest are assigned to the states of provinces (Macmahon, 1972).

When we examine the constitution of federal states, what we observe are enumeration of powers assigned to two levels of government the practice is however different from one federal state to the other. Dibia (2018) contended that, in some cases, the powers of the central government are enumerated leaving the rest to the states. In others, the central and state government powers are listed. Examine be are the practice in the United States of America and the Federal Republic of Nigeria.

Distribution of Powers in the United States

The framers of the United States Constitution adopted the practice of government, leaving the rest to the states. The Tenth Amendment to the United States Constitution states, ‘the powers not delegated to the United States by the constitution, nor prohibited by it to the states, are reserved to states respectively, or to the people’. Article 1 Section 8 enumerated the legislative powers of the government, these include:

1. To lay and collect taxes, duties, imports, and excise to pay the debts and provide for the common defense and general welfare of the United States: but all duties, imports and excises shall be uniform throughout the United States
2. To borrow money on the credit of the United States
3. To regulate commerce with foreign nations, and among the several states, the Indian tribes
4. To establish a uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States
5. To coin money, regulate the value thereof, and of foreign coin, and fix the standard of weight and measures
6. To provide for the punishment of counterfeiting the securities and the current coin of the United States
7. To establish post offices and post roads

8. To promote the progress of science and useful arts by securing for United to authors and inventors the exclusive right to their respective wittings and discoveries
9. To define and punish piracies and felonies committed on the high seas and offences against the law of nations
10. To declare war, grant letters of marquee and reprisal, and make rules concerning captures on land and water
11. To raise and support Armies but no appropriation of money to that use shall be for a longer term than two years
12. To provide and maintain a Navy
13. To make rules for the government and regulation of the land and Naval forces
14. To provide for the calling forth the militia to executive the laws of the union, suppress insurrections and repel invasions
15. To provide for organizing army and discipline the militia, and for governing such part of them as may be employed in the service of the united states, reserving to the states, respectively the apartment of the officers and the authority of training the militia, according prescribed by congress
16. To exercise exclusive legislation in au cases whatever over such district (not exceeding ten mile square) as man by cession of particular states and the acceptance o congress. become the seat of government of the United States and to exercise like authority over all place purpose by the consent of the legislature of the state ii which the same shall be for erection of forts, magazines, arsenals dock- yards, and other needful buildings; and
17. To make all laws which shall be necessary and proper for carrying into execution the foregoing powers and all other powers vested by this constitution in the government of the United states, or in any department or officer thereof (CUSA, 1787).

Distribution of Powers in Nigeria

The Nigeria Constitution assigns exclusive legislative functions to the federal (and state) governments. The second schedule to the 1999 Constitution contains the legislative powers of the federal and state governments. Part I contains the federal government exclusive legislative list which contains the following among others.

- 1) Arms, ammunition and explosives
- 2) Aviation, including airports and goods by air
- 3) Bankruptcy and insolvency
- 4) Copyright
- 5) Creation of states
- 6) Currency coinage and legal tender
- 7) Customs and excise duties
- 8) Defense and census
- 9) Deportation of persons who are not citizens of Nigeria
- 10) Designation of securities in which trust funds may be invested
- 11) Insurance, diplomatic, consular and trade representation
- 12) Drugs and poisons
- 13) Exchange control
- 14) Export duties
- 15) External affairs
- 16) Extradition
- 17) Immigration into and emigration from, Nigeria passports and visas:
- 18) Maritime shipping and navigation
- 19) Meteorology
- 20) Military (Army, Navy and Air force) including any other branch of the armed forces of the federation
- 21) Nuclear energy
- 22) Prisons, quarantine, etc.

Part II contains the concurrent legislative list specifying the extent of federal and state legislative powers

- a) Allocation of revenue
- b) Antiquities and monuments
- c) Archives
- d) Collection of taxes
- e) Electoral law
- f) Electric power
- g) University, technological and post primary education
- h) Scientific and technological research
- I) Statistics
- j) Trigonometrically cadastral and topographical survey
- k) Exhibition of cinematograph films

According to Eme Awa, (1976)' The use of concurrent list is criticized for making a Constitution look cumbersome and leaving regional governments in doubt regarding the extent of their powers. The latter problem is said to arise because the central government is usually empowered to override them in cases of conflict between legislations enacted by the two levels of government on the same subject. But important advantage, as Eme Awa observed, do flow from the use of Concurrent lists, the most significant being the following:

- i. It enables the federal government to enter certain areas of activity in order to help relatively backward regions or sections of the country. The subjects that are often considered for such treatment are health education and welfare Federal action in these areas helps to provide the physical needs of the people more effectively and to raise their cognitive orientation. In this way it can accelerate the emergence of a participant political culture especially in new states where lack of such opportunities helps to tie the people firmly to their primordial loyalties and to alienated them from the political system
- ii. It may generate cooperation and understanding between the two levels of government and in that case doubt regarding the extent of regional legislative authority will hardly arise.
- iii. It is an important means of infusing flexibility into the working of the federal system.

Revenue Allocation

According to Lazarus (1998) the basic problem in federal finance is how to allocate revenue between the two levels of government and among the units so that levels of government may have the financial capacity to perform the functions assigned to it. Clearly two main considerations are borne in mind in the distribution of functions between the centre and the units. One is that functions of a general nature are assigned to the inclusive or general government while functions of a local nature are allocated to the units. The most controversial issue is now revenue should be allocated to the various tiers of government to enable them perform their functions. Here we consider the case of Nigeria because it is one of the countries where revenue allocation has proved divisive (Davis, 1955).

Distribution of Revenue Between the Inclusive Government and the Units

In the initial distribution of revenue between the two levels of government, customs and excise duties reasons for this more are both political and economic from the political point of view it is clear that if the units were allowed to impose and collect the customs and excise duties they might do so at differential rates and create the impression of having sovereign status vis-à-vis the position of the central government.

The union might look more like a confederation than a federation from the economic point of view there is firstly a desire to ensure a uniform rate of customs and excise duties and a free flow of commodities among the units. There is secondly an attempt to place in the hands of the federal government a reliable source of revenue so that it can, without too much difficulty, meet the demand of preserving the territorial integrity of the federation and the internal constitutional order.

Since Nigeria adopted a federal constitution in 1954 the sharing of revenue between the two levels of government and among the units has been carried out according to formulas recommended by ad-hoc commissions. Reviews of the method have been carried out in 1958, 1964 and 1968. Some of the recommendations of the 1954 commission were as follows;

- a. The federal government should keep 50% of the general import duty while 50% should go to the regions;

- b. The federal government should keep 50% of the import and excise duty on tobacco. the rest going to the regions;
- c. 100% of the import duty on motor should go to the regions;
- d. 100% of the mining rent and royalty should go to the units;
- e. Both levels should share the export duty on hides and skin on a 50- 50 basis,

But in 1964 the allocations were as follows:

- a. 65% of the general import duty went to the central government 35% going to the regions;
- b. Of mining rents and royalties 15% went to the federal government and 85% to the regions;
- c. The regions were excluded from sharing in the excise duties. It is obvious that the 1958 allocation tended to favour the federal government while that of 1964 favored the units;

The Commission of 1968 recommended sharing as follows:

- a. Import duties on all commodities should be shared equally between
- b. Rent in respect of off-shore mining operations should secure wholly to the national government:
- c. Rent and royalties from on-share mining operations should be shared between the federal government and regions and a special account in the ratio 15%, 80% and 5% respectively.

Theoretical Framework

This study adopts K.C. Wheare's conceptual view point of federalism. A federal constitution establishes a federal government. According to Wheare (1964) federalism is a governmental system in which there exists two or more levels of authority and in which governmental powers are divided between the central/ federal and the component government in such a manner that each has a sphere of exclusive jurisdiction and competence within which it is independent.

Oluyede (1992) puts it this way: when the powers of government of a given state are divided in such a manner that there is a single independent authority for the state in respect of certain matters like foreign affairs, currency citizenship, defense, etc, and there are independent regional or state authorities for other matters but each set of authority being co ordinate with and not subordinate to the other within its prescribed sphere of authority, then there is a federal system of government, the federal government represents the whole and acts on its behalf in external matters and in such internal affairs as are held to be of common interest, whole the component governments acts on internal matters that are particular to their people as given to them by the constitution. Both the federal and component governments derive their power from the constitution that the powers conferred on one government cannot be tampered with, abolished or appropriated by the other, except through constitutional means. Examples of such states are Nigeria, U.S.A, Canada, Australia, India, and Malaysia and so on.

According to Wheare all the above factors” Operated in the United States, Switzerland, Canada and Australia to produce a desire for union among the communities concerned. They operated in varying degree in each case, but they were all present” Eme Awa (1976) also agree with the above submission of Wheare in his book” Issues in Federal Government”

This study decided to adopt the K.C Wheare’s conceptual approach to federalism because it explores the concept of federalism in its totality bringing out its true meaning features, advantages and disadvantages and of course reason why nations adopt federal system of government.

Osai, (2002) argued that federalism is more of a political system than an ideological system. The idea originated with the concept of intergovernmental relations and dates back to the legal relationships between the leagues and the city- states.

4. Findings of the Study

This study had clearly shown that true federalism enhances unity and development in a country. The study vividly demonstrates this fact. Thus the review of relevant literatures revealed that;

- a) Democracy is a precondition for true federalism in a political system
- b) True federalism cannot exist without an independent judiciary

c) That there is absolutely a need for the existence of a powerful legislature in a political system for true federalism to operate effectively.

d) The study shows that the people of a country tend to be dissatisfied where the federal system of government does not give room for regional or state autonomy

e) It was also discovered that only countries where the judiciary is independent totally from the influences of the other institutions of government that true federalism can thrive. A good number of literatures argued that both in the USA and Nigeria democracy is a necessary factor or variable that guarantees true federalism in a political system (country) while a powerful legislature is inevitable for true federalism to triumph in a political system.

5. Summary, Conclusion and Recommendations

Summary

The federal system of government practice in the United States of America remains the best model of true federalism. The federal system of government in Nigeria discovered in this study is diluted because most of the attributes of federalism are discarded in the practice of federalism in Nigeria.

The study also reveals that the democratic process with particular regards to the conduct of elections is far more effective and efficient in the United States of America (USA) than it is in Nigeria. This also has adversely affected the Nigerian federal system of government.

The legislature as the study clearly reveals is more powerful in the United States of America than it is in Nigeria and the judiciary in Nigeria is not completely independent from the executive and the legislative arms of the government (even with the recent alteration of the 1999 Constitution of the Federal Republic of Nigeria by the 9th National Assembly in 2023 which grants both organs of government autonomy) unlike what is obtainable in the United State of America where both the legislature and the judiciary exercise fully independent powers without influence from the executive or any other institution of government. There are no checks and balances in the Nigerian federalism and this has also contributed to the non-attainment of true federalism in Nigeria. The story is not the same with the USA where the system of checks and balances as advocated by Baron De Montesquieu is very much in effect among the three branches of government (Dibie, 2018).

The issue of resource control is adequately addressed in the American federal system which allows the component units to control their resources which has brought unity and development in that country but the story in Nigeria is the direct opposite of what is obtainable in the United States of America (Osai, 2002).

We discovered in the course of this study that there are two major ways through which a federation is formed these are, the coming together of different autonomous states or regions and the creation of states by an already existing federal state. The former is what is found in the American federal system while the latter can be said to be applicable to the Nigerian federal system (Hearts, 1999).

The second path to the formation of federal state as mentioned above, is one in which in response to some conditioning factors the central government divides the country into constituent states. This is the path to federalism followed by Nigeria. As Oyoubaire (1979) succinctly puts it:

“The Nigeria federation was neither a contract between states nor a voluntary union of originally independent states. Historically, the federated units did not have separate existence as political system prior to the colonial experience. The pre-colonial entities were empires, kingdoms, chiefdoms and villages, republics of varying territorial sizes and organizations and with varying degrees of autonomy and dependence upon each other. Federalization was not a process of unfettered negotiation among these units but initially colonial structures for purposes of effective colonial domination and later (1963,1976, etc) series of further fragmentation by the central government of the three independent regions, including the North, West and Eastern regions”

Clearly in Nigeria the states are creations of the central government. because of the predominant position of the federal government in this path to a federal state, the federal government appropriates to itself powers such as ownership and control of natural resources and assigns to the constituent states only those powers it deems fit, The unilateral constitutional amendments by the federal government under military regimes are a pointer to the supremacy of the federal government in assigning power to the states (Abba, 2008).

Duchacek (1970) emphasized that both in Nigeria and in USA the constitutional position regarding the ownership and control of natural resources is unlikely to change. It is indeed doubtful that states in Nigeria and the federal government in USA would ever own and control

natural resources. Rather, what we might expect is further widening and strengthening of existing control of natural resources in both countries, natural resources in Nigeria- minerals and mineral oil and gas are found and exploited in the minority states; Bayelsa, Rivers, Edo, Delta and Akwa-Ibom. In the power configuration in Nigeria's multi-ethnic political system the minority states can have their say while the majority states always have their way. In essence, the powerful big brothers (Ibo East Yoruba West and Hausa- Fulani North) in this country are united in conspiracy against these states irrespective of the political parties that govern these states (Alamieyeseigha, 2004). This Conspiracy of the powerful over the powerless is fraught with dangers: it is ominous for the future political order; the implication is that, any move by the minority states to demand ownership and control of natural resources would be jettisoned by the majority states/ethnic groups who stand to lose if the constitutional position is changed (Azaiki, 2003).

Conclusion

Several broad conclusions can be drawn from this study. First, the study suggests that the federal states formed by the voluntary union of independent states are more likely to be effective in terms of national unity and development and the ownership and control of natural resources is more likely also to be in the hands of the state or regional governments. On the other hand a federal state formed through creation of states by the central government is likely to have natural resources under the control of the federal government.

Secondly, federal ownership and control of natural resources is imperative in countries where majority-minority dichotomy exists and where political power is in the hands of majority states. This is because of the powerlessness of minority groups in the power configuration one option which is the current practice is for minority states with natural resources to struggle for the application of the derivation principle in transfer payments by the federal government (Dibie, 2018).

The legislative and the judicial arms of government who are determinant of true federalism in a political system are weak (despite the recent amendment to the 1999 Constitution which grant them autonomy) in Nigeria when in comparison with their counterparts in the United States of America (USA). Thus, the only situation a truly federal system of government with a powerful legislature, an independent judiciary and a free and fair democratic electoral process which

may alter the present constitutional position is when minerals and mineral oil and gas are found and exploited in the majority states. This is the only time that ownership and control of natural resources will be moved to the political agenda of national politics in Nigeria (Azaiki, 2003).

Recommendations

The following recommendations were made to the Nigerian State and the government of the Nigerian Federation, based on the findings during the course of this research in order to aid the leadership of our great country on the areas that have been neglected or need improvement. The research study pointed out some problems inherent in the Nigerian federal system of government.

In view of this, the leadership of the Nigerian State should endeavour to work with the following recommendations:

- The study reveals that true federalism can hardly be attained in a political system with a faulty democratic practice. The Nigerian democratic processes should be reviewed especially in the area of party politics and electoral system so as to allow for the practice of true federalism in the country.
- The judiciary is the third organ of government charged with the responsibility of adjudication in dispute and interpretation of laws. The role of the judiciary is important in the discharge of government functions, hence to attain true federalism in Nigeria; premium must be placed on the independence of the judiciary. To this extent. Judges are required to possess qualitative integrity, be honest and impartial in the interpretation of laws and dispensation of justice in Nigeria. Similarly the objective and essence of safeguarding the independence of the judiciary are to ensure the protection of the freedom and rights of individuals; to make judges execute their duties without fear or favour; to prevent abuse of or arbitrariness in the exercise of power by government functionaries, authorities and to interpret the constitution and declare, unconstitutional (especially in federal states,) acts of the legislature or of the executive that are in conflict with the constitution.
- The legislative organ of government in Nigeria which is bicameral like that of the United States of American needs to be further strengthened if true federalism must be achieved in our political history. The legislature in Nigeria which is responsible for the

making of laws for the good governance of the Nigerian State must endeavour not only to perform its primary function of law making but should also monitor and supervise the implementation of government policies, programmes and projects of the executive arms of government or its appropriate agencies with respect to finance, the legislature approves scrutinizes and monitors the expenditure of government money through approval of annual and supplementary budgets, authorization of expenditure, impounding of government fund and raising of funds for government. A power legislature should also receive petitions from individuals, groups and associations on public related matters investigate and treat them accordingly. The legislature in Nigeria must be strict in performing quasi judicial functions by issuing warrant of arrest authorizing the police to arrest and cause a person to appear before it to respond to some matters of public interest or mandate its judiciary committee to investigate or advise the judiciary on judiciary related matters.

- The 1999 Constitution of the Federal Republic of Nigeria also need to be reviewed to allow for the practice of true federalism in Nigeria.
- Finally, this research work is not devoid of its shortcomings the researcher therefore, recommends that further study be carried out in the area of federalism in Nigeria, considering the fact that no other forms of government suits heterogeneous society like Nigeria.

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