

## **Federalism at Bay: The Devil in a Nigerian Democracy**

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### **Abstract**

*Federalism presupposes the independence of different tiers of government in a relationship of sufficient powers and resources to support their structure of government. The separate existence of each government, therefore, and the plenary character of its powers, within the constitution's assigned sphere, flows the doctrine that the exercise of these powers is not to be impeded or interfered with by other tiers, exercising their own powers. This paper argues that on the basis of the the Nigerian experience, that adoption of a federal political system is no guarantee for the practice of federalism. Federal agents freely manipulate State Assemblies to impeach state governors incessantly and unless urgent political restructuring is embarked upon to support the federal order, Nigeria's survival may not be guaranteed.*

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### **Introduction**

Nigeria like most African states, has been characterised as either fractured (Young, 1994), collapsed (Zartman, 1995) or failed (Holsti, 1996). It has, however, faced perhaps its severest post-colonial crisis in the period spanning the last half-decade of the twentieth century till date. Faced with social dislocations, violent conflicts over issues of citizenship, resource control, access to power and power sharing, Nigeria has almost lost the capacity to function as a state. Such weathering of legitimacy of the state in Nigeria and other African states and the attendant crises of social and economic proportions, have in the opinion of some writers elicited new paradigmatic problem whose solutions entailed 'rethinking' the state in Africa (Ergas, 1987; Clapham, 2001). But given the history of these crises, it was not surprising that most thoughts were not only generally critical but also unsupportive of the state. The end of the Cold War, which accentuated the inequality between the North and South, obliterated the privilege that gave the state the edge over other power contenders and de-legitimised rival claims, especially those by aggrieved minorities and other ethnic movements, within state boundaries. As Osaghae (2004:163) contends, "there was nothing sacrosanct or divine for that matter about the state any more. It was, indeed, a no holds barred rethinking". Thus, while some

thought of strengthening civil society and private sector as alternative agencies of development, others were prepared to contemplate the redrawing and reconfiguration of states, including dissolution and disintegration (Clapham, 2001).

Owing to the contradictions of globalisation, democratisation, liberalisation and other simultaneous economic and social processes that gave vent and legitimacy to non-state and anti-state claims and demands, issues of legitimacy, autonomy, citizenship, equity, power sharing and resource control loomed larger than ever before. The new goals and demands ranged from greater autonomy and decentralisation to resource control, reconfiguration of state power, equitable power sharing and group rights. Sovereign National Conference. Although separatist agitations (like Biafra), often regarded as the most dangerous threat to a state were, outliers, the anti-state mobilisation in the supposedly less dangerous demands posed no less serious challenges to the state.

Thus, unlike in the past when Ottaway (1997) asserts, ethnic politics was "remarkably subdued", the new wave of assertive ethnic nationalism presented a completely different scenario that leave the state at great risk. The only way to survive and avoid destructive conflict and war was to confront the more determined manifestations of ethnic nationalism. Not surprisingly, one of the more notable responses to the challenge was the resurgence of federalism as a device for managing diversity resurgence because federalism had featured prominently in the fragile transitions of the immediate post-independence period when issues of viability, stability and survival stared the newly independent state in the face; essentially, the nature of the articulation of the problematics of diversity, made federalism in particular an appropriate contemplation.

### **Democratic Federalism: a Conceptual Discourse**

The word democracy is coined from Greek words: *Demos* (people) and *Kratos* meaning peoples rule. According to Kaur (2002), it is one of the concepts in political science on which there is no agreement on definition. Joseph Schumpeter, defined democracy as a system "for arriving at political decisions in which individuals acquire the power to decide by means of a competitive struggle for the people's vote"(cited in Diamond, 1999:8). However, the popular definition of this political concept is that given by Abraham Lincoln that "democracy is a government of the people, by the people and for the people". Democracy is, therefore, an anathema to arbitrary rule, which explains the existence of institutions like the legislature, the Judiciary, the Executive, the media and civil society as organised bodies in democratic countries to monitor and check arbitrary rule. There are only 22-23 countries in the world with federal forms of government. These include India; the largest democracy in the world, the United States of America and Germany with almost a third of the population of the European Union. In the African continent there

are two federal states; Nigeria - the most populous country and Ethiopia since 1974. Therefore, in terms of demographic coverage, nearly one third of the globe may be pursuing a federal form of government, although apparently, there are significant variations between these federal arrangements.

Although the democratic creed is universal, its institutional expression is not. However, whatever institutional forms it takes must contain at the minimum, the idea that legitimate power or authority must be circumscribed by a set of rules to prevent its whimsical or arbitrary deployment (rule of law); the idea that rulers are chosen by and are accountable to the people for their public actions; the right of citizens to participate in management of their public affairs through elections and other civic engagements; and last but probably the most important, the right to change a government that does not serve their interests either through the constitutional procedure, but if this is made impossible by state actors through revolution (Nzongola, 2000:3). These are the universal minima for democratic politics. Progress material and spiritual is impossible without them. It is failure to accept these minima that explains why federalism has failed to take root in Africa, and why it has been a disappointment "in so far as it has been unable to give political viability to the post colonial state", (Mutua, 1995:1152). As Prezeworski et al, (2000) points out, democracy is much more likely to endure in countries where income inequalities decline overtime than where it increases.

A federal state is usually formed through the political union of several independent states or units under one sovereign government that does not abrogate the individual powers of those units. Therefore, a prerequisite for federalism is a democratic dispensation. Alfred Stepan (1997:3) endorsing Dahl aptly asserted, "in a strict sense, only a democracy can be a federal system, since federalism is a system in which some matters are exclusively within the competence of certain local units cantons, states, provinces and are constitutionally beyond the scope of the authority of the national government and where certain other matters are constitutionally outside the scope of the authority of the smaller units". Thus, anchored to the value principles of non-centralisation and subsystem autonomy, constitutional federalism is legally guaranteed division of legislative powers between two orders of government in such a way that neither of them is legally subordinate to the other in the performance of its legislative responsibilities, each governments acts directly on the people and possesses a separate institutional structure for the formulation and implementation of its legislative programmes of activities and neither can unilaterally alter the supreme fundamental law which allocates legislative and financial powers of both of them. It also requires the division of territory and wealth in such a way that it promotes equity amongst the various groups' interests in the country.

Thus defined, constitutional federalism suggests itself as a strategy for managing conflict potentials in deeply segmented societies all over the world and particularly for the reconstruction of the state in contemporary Africa (Akindele, 2003). Federalism is equally seen as a political system that ensures the preservation of the unique characteristics, identities, tradition and cultures of heterogeneous population (Lemco, 1991). Therefore, federalism both as a principle and form of governance offers societies deeply divided by race, ethnicity and religion the more democratic route to the resolution of the national question.

### **Colonial Provenance of Nigerian Federalism**

In discussing the origin of Nigerian federalism, a distinction is made between aggregative or "coming together" federalism and disaggregative, devolutionary or "holding together" federations (Stepan, 1997; Linz 1997; Watts 1996:115-119). According to Wheare (1963), "federalism is a constitutional arrangement in which law-making powers and functions are divided among tiers of government in such a way that within its respective sphere of jurisdiction and competence, each government is independent or autonomous and co-ordinate. A cardinal principal of federalism is that there is no subordinate government, even though there may be two or more state governments". According to Thedieck, (2002), there are at least three forms of federalism; functional, ethno-regional and cooperative. However, our interest here is on functional federalism, which he defined as a system of federalism focused on power sharing and separation of functions between the federal and member states and among the member states.

What can be deduced from these definitions is the fact that there is an agreement between the federating parties on the need to federate. Nigeria's status as a federal polity reflects the history and geography of colonial rule, given additional twists by the interventions of an array of military regimes. Constitutional federalism was first adopted in Nigeria in 1954; it emerged in a matured form at independence in 1960. The Nigerian federalism unlike the American federations, started first as one whole (unitary government) then with provinces and finally regions. These were very powerful regions that have yielded some of their powers to the state units created therefrom (Esho, 1996:xii). Taking cognisance of the above, Larry Diamond, asserted that the British imposed Nigeria's federalism by fiat "rejecting minority group demands for the security of their own regions, and southern warning that a federal system in which one region had a population majority could not be stable (Diamond, 1988:29). Therefore, "the Nigerian federation has always had peculiar features; the most evident being that it was not created by coming together of separate states but was the result of the subdivision of a country, which had in theory been ruled as a single unit (Mackintosh 1962:223).

However, the role of the British notwithstanding, two main objectives of Nigerian nationalism, namely self-government and the attainment of national unity, may explain the development of the idea of federalism. Owing to the variegated nature of the people, culturally, linguistically, traditionally, customarily and religiously, majority of Nigerian legislators, in contributing to debates, favoured a federal system that would give the regions or provinces the possibility of maintaining their identity while remaining part of a unified state. This is because in their opinion, a federal state was extremely productive of unity, and hence also supportive of culture. Some of Nigeria's foremost nationalists, Nnamdi Azikiwe and Obafemi Awolowo in their publications have been supportive of federalism. For example, in 1943, Azikiwe canvassed for a Nigerian federation, made up of 8 "protectorates" based on ethnic affiliation (Azikiwe, 1943), while Awolowo, (1947:47), opined that "since the existing three regions were established merely for the purpose of administrative convenience, only a truly federal system would suit Nigerian political condition".

By 1948, the North accepted the federal idea, when Tafawa Balewa, said; "I am beginning to think, Sir that Nigeria's political future may only lie in a federation, because so far as the rate of national progress is concerned, some of the regions appear to be more developed than others..." (NAI, NL/F2, 1948:453). Balewa had in 1947 expressed the view that since amalgamation of the Northern and Southern provinces, in 1914, "Nigeria has existed as one country only on paper, and that it was "still far from being considered as one country, much less to think of it as being united" (NAI, NL/F2, 1947:208). According to Sir, Udoma, the starting point of Nigeria's federalism was 1946 when the colonial government restructured Nigeria by splitting the Southern Protectorate into east and west thereby creating three Regions, a development, which Nigerian nationalist vigorously protested against because of the fear that decentralisation into three regions was part of a design to ultimately dismember the country (Udoma, 1994:91).

However, it is generally accepted that the 1960 and 1963 Constitutions epitomised true federalism in Nigeria. Under the resulting constitutional order, the various regions had their respective constitutions: The North had its constitution; the same for the West and the East. When the Midwest was later created in 1963, she also had her own constitution. The system created a very healthy rivalry among the regions. Besides issues such as the role of the minorities, vis-à-vis the larger groups, were carefully trashed out and a certain level of unanimity was reached on several key areas like the limited role of religion in the affairs of the state and the preferred inter-governmental relationship. More importantly, the independence constitution recognised the importance of resource control and social equity in the new federation and, therefore, went ahead to provide for a derivation formula that enabled the regions to retain 50 per cent of whatever is derived from their territories.

### **Post-Colonial Character of Nigerian Federalism**

The history of the political parties in Nigeria strongly speaks for the recognition of ethnic belongingness. During the first republic the Action Group (AG) in the west had Yoruba supporters, the Northern People's Congress (NPC) was composed mainly of Hausa-Fulani, while the National Convention of Nigerian Citizens (NCNC) was almost exclusively the party of the Ibo people. As Wright, (1990:576) observed, minorities such as the Tiv, Nupe, Kanunri, and Ibibio couldn't get their voices heard. In the opinion of Tekema Tamuno, in practice, both the elites and the masses allowed Nigerian federalism to encounter severe crisis during its "formative years". That federalism, in particular and the multi-nation state, in general did not experience sudden death in its formative years is not merely through good luck but also from increasing public awareness of the balance of advantage between issues that unite and those that divide (Tamuno, 1978). By 1963 when Nigeria became a republic, there were four regions in the Nigerian Federation; Northern, Western, Mid-Western and Eastern regions. The army abrogated the regions in 1967 with the creation of 12 states. The number of states was increased to 19 in 1976 and in 1987; the number of states was further increased to 22. Presently, there are 36 states and a federal capital territory at Abuja. On abrogation of the regions in 1967 Gowon said, "We have to make sure that no other part of the country would be so powerful and strong to threaten the nation. The regions were so powerful and therefore something had to be done" (Okocha, 2005).

In the opinion of some writers, the creation of new states alleviated some socio-cultural tensions in the polity (Agbaje and Suberu, 1998; Wright, 1990:582). However, Suberu, (1996) has noted that the federal system in Nigeria under the military virtually ignored the complex ethnic configurations found in each of the three regions, the need for structural balance in the composition of the federation and ethnic minority fears over political domination and socio-economic discrimination under majority rule. Particularly, since the military coup that ended the second republic in 1983, the impact of military rule in Nigerian federalism became progressively obnoxious and ruinous. Babangida and Abacha regimes adopted highly instrumentalist and tokenistic approaches to the problems faced by minorities, while, their regimes were characterised by increasingly personalised forms of rule, desperate bids to cling to power as well as deeply repressive and barbaric methods of eliminating dissent. Moreover, the destructive competition between the three majority ethnic groups and their obsession with the zero-sum politics of winner-takes-all prevented regional leaders from reaching any agreement over the distribution of federal positions and appointments (Osaghae, 1989:445).

We, therefore, opine that the creation of states by the army started the distortion of the Nigerian federation. It intensified the struggle between ethnic identities and national identity as defined by the centre since 1960. As, Egunjobi,

(1990) observed, states creation was not carried out for any altruistic reasons, as the urge was solely related to resource sharing. Hence, demographic consideration played insignificant role in the exercise, as there were only 2 million people in Niger State compared to 10 million in Kano State. Furthermore, state creation resulted in Jacobin effects, which make the states to become increasingly more dependent on the centre. Such centralism greatly increased the power of the central (federal) government in relation to state governments and society, and generally served to alienate governments from the people. Therefore, states creation did not necessarily produce greater national unity. Indeed, on balance, it can be argued that the politics of each state, based as it were on the same pattern of national politics, created greater disunity. This is because the increase in the number of states results from the division of each of the large tribes into several states, at the expense of the smaller tribes that are too small in population to constitute states, and many are in fact crunched together in tension-ridden states. Thus, state creation merely became a hegemonic device to strengthen the strong and a constitutional device for the disempowerment of the weak (minorities) by the elite of the dominant ethnic groups

### **The Military and Federalism**

When the military seized political power in January 1966, there was a general feeling in the country that they were motivated by altruistic intentions and objectives to save the country from descent into political chaos and instability. As time passed, the country's military rulers and the military as an institution by and large lost their sense of direction as the greed of the military dragged the nation further and further away from the project of nationhood. Quite clearly, federalism and military rule are strictly speaking, strange bed-fellows and incompatible. The result is that by the end of almost thirty years of military rule, Nigeria is far more fragmented than it was in January 1966, when the military first seized power. In the words of Awolowo Dosumu, "given the nature of the military as a hierarchical and centralising institution, a large dose of unitarist accretion would appear to have been infused into the Nigerian federal system, so much so that the casual observer would wonder and worry about the integrity and survivability of the federal structure in the face of such a protracted (military) onslaught" (Awolowo, 1994:180). The major reason for this abysmal performance of the Nigerian military were first, the centralist nature of army rule, leading to the institutionalised dictatorship with each new coup.

In the view of Akindele, there is absolutely no doubt that the pseudo-federal system presided over by Generals Yakubu Gowon (1966 - 1975), Murtala Mohammed and Olusegun Obasanjo (1975 - 1979) severely compromised the integrity of Nigerian federalism, in addition to making a mockery of it, while the regimes of Generals Mohammadu Buhari (1983 - 1985), Ibrahim Babangida (1985 - 1993) and Sanni Abacha (1993 - 1998) slaughtered and buried federalism in the

practorian grave-yard of imposed, centralised and authoritarian dictatorship that followed the Shehu Shagari administration of 1979 to 1983, (Akindele, 2000). Nigeria's federal system became centralised with the federal government becoming economically more powerful. The concentration of resources at the centre however, came about through changes that the federal military government made in the revenue allocation formula and through taking over revenue sources that previously belonged to the states (Oyovbaire, 1978:224-229). It also placed limits on the elasticity of some states revenue sources such as income tax (Mbanefo, 1986:8-16), thereby enfeebling the states the more. As Gboyega (2003:69) opines, with the concentration of resources at the centre and the unity of command, of the military organisation, there was no aspect of national life that the federal government could not intrude into. The jettisoning of the erstwhile revenue sharing principle, which has been in operation since the early 1946, made revenue sharing a flash point of national politics. As Gana and Egwu (2003) asserts, in no other federation is the thorny nature of fiscal federalism dramatised as in Nigeria as pre-occupation of state elite with survival, precipitated the erosion of the political landscape.

The sharing of national revenue based on the principle of derivation formed the cornerstone of the 1960 constitution. It was negotiated by all ethnic delegations during the constitutional conferences; in 1950, 1953, 1954, 1957 and 1959, which preceded the independence constitution. Thus, between 1946 and 1960, the derivation principle was maintained at 50%. The constitutions of 1960 and 1963 affirmed the 50% derivation rate. Section 140 of both constitutions stipulated that for the sharing of the proceeds of minerals, including mineral oil, "there shall be paid by the Federal Government to a Region, a sum equal to 50% of the proceeds of any royalty received by the Federation in respect of any mineral extracted in that region and any mining rents derived by the Federal Government from within the region". To summarise, 50% of the proceeds from minerals, including mineral oil, went to the region from where they were extracted; 30 per cent went into a pool for distribution to all regions, including the producing regions; and 20 per cent went to the Federal Government. This revenue sharing system continued at the same level until 1967, when the Nigerian civil war started. The onset of the civil war, led to the political and fiscal centralisation of the federal system.

At the onset of the civil war, the revenue sharing formula was replaced with one of doubtful parameters, which gave more resources to none-resource producing areas at the expense of resource producing areas and overwhelming resources to the centre at the expense of the states, thus creating disillusionment. Tamuno, (1998) reacted to the new formula thus, "clearly before and since the era of formal federalism in Nigeria from 1954, the fiscal relationship between the centre and the periphery resembles the roles of a householder and a housekeeper. In turn, it was also one of the pay-master of the piper dictating the tune". The Nigerian state became



characterised by over centralisation (Wunsch and Olowu, 1995) leading generally to disconnection from civil society and ultimately becoming disengaged from it (Hyden, 1983), even as the citizen is alienated from it and adopts a survival strategy of avoidance (Ake, 1996), leading to politics of exclusion (Dommen, 1997). This latter characteristic produced the prebendal (Joseph, 1987) and kleptomatic (Dommen, 1997) regimes.

This led to frequent reviews of constitution, which were rather controversial and more difficult to classify. Again according to Tamuno, (1998), "the constitutions of the 1922-54 era were less controversial than those since independence. Those in the latter group were also more difficult to classify. It was not always clear what names to give to them; federal, quasi-federal, pseudo-federal centralist, militarist or otherwise" - giving rise to more disillusionment by the citizenry. We opine that controversy or lack of it is highly connected with the application of the principle of fiscal federalism in the constitutions. According to Mbanefoh (1993), the principle of derivation was accorded priority by the Phillipson (1946), Hicks-Phillipson, (1951), Chicks (1953), Raisman (1958) commissions, while, Binn's 1964, Abayode (1977), Okigbo (1979) and National Revenue Mobilisation, Allocation and Fiscal Commission (1989) de-emphasised derivation, which coincided with the advent of oil as the linchpin of the economy and its location in minority areas of the Niger Delta. Thus, the weight accorded derivation principle appears to have been determined by the interests of the different factions of the ruling class and their political power (Fashina, 1998:109).

This is easily brought out in bold relief when we examine the effect of state creation on revenue allocation within a four-year period 1992 - 1995. The relative share of Cross River and Kaduna states that used to oscillate between 5.0 - 5.5% and 5.4 - 6.0%, respectively, declined after 1987. The creation of Akwa-Ibom state (from the old Cross River State) and Katsina State (from the old Kaduna State), obviously accounted for this observed decline. Nine additional states were created in 1991 bringing the number of states to thirty. Delta and Edo States were created from the former Bendel State; Osun from the erstwhile Oyo State and Kebbi from the old Sokoto State. This exercise altered the pattern of revenue allocation to states. For example, the share of Kaduna state from the joint federation account averaged 5.7% annually between 1980 and 1986. However, Katsina state was created from Kaduna state and this raised their combined share to 7.8% in the four years 1992 - 1995. The lowest share recorded by Bendel State in the 1980s was 5.9% in 1985. But with the bifurcation of the state into Delta and Edo States, their combined allocation only averaged 5.9% a far cry from the figures of the 1980s. However, Juxtaposed against this is the increasing statutory allocation to Sokoto and Kebbi States when compared to the single State before 1991. Six additional states were created in October 1996;

Sokoto state was further divided into Sokoto and Zamfara state and by this, the former Sokoto state has been divided into three states. These figures do not include allocations to local governments, which when included clearly tilts revenue allocation in favour of the major ethnic groups. For instance, Edo and Delta States combined have 42 local government areas whereas Kano and Jigawa States combined have over 70 local government areas. Thus, all constitutional tinkering are mere primordial manipulations to divert revenue from minority area where resources are produced to majority areas without resources.

The effect of state creation on revenue allocation is easily seen, when the data are organised into the four former regions. So arranged, we will discover that the share of the Northern region (all the Northern states) tended to increase from 48.4% of 1982-84 period, to 49% during the 1987/89 and averaged about 51.7% for 1992/95 period. However, at the same period, the share of the former Mid-western region (Edo and Delta States), the area producing more than 60% of the country's wealth declined to an average of 5.4% from an average 11% in the 1970s.

With increasing disillusionment over absence of lasting gains from the frequent reviews of constitutions, their *raison d'etre* also become suspect in the minds of the people. Equally suspect, also, is the overall usefulness of federalism (beside basic economic considerations) in a land suffused with two of its most potent threats: absence of liberal democracy and pervasive poverty and misery. Thus, giving rise to the familiar question: *cui bono?* (to whom is it an advantage)? In addition, to the near centralisation of resources and governmental functions at the centre, the judicial arm of government, which is very vital in any true federal system also faced severe emasculation. As it were, it was almost "decreed" out of existence by the military. Before the era of coups d' etats in Nigeria, the law (including the constitution) was what judges said it was. With coups d'etat, the law (any law) was what a long line of decrees or edicts and their makers said it was. Justice, in a federation, constantly govern by these decrees and edicts, became less certain and legitimacy more suspect. These developments helped to give Nigerian's succession of federal arrangements an unstable base during the first four decades of independence.

Consequently, it has been very difficult to classify Nigeria as an organic state as realities on the ground, nicknamed "Nigerian factor", perfected by the military makes such dream a very tall one. Though, Babangida (1993:1) thinks otherwise when he optimistically said "if, in the pursuit of their interest the British created Nigeria, today, Nigeria has come to have a different meaning for us. If Nigeria used to be a mere geographical expression, it is now an organic state". However, Tamuno, (1998) has this to say "If the above statement is true...., overwhelming hunger and diseases in rural areas, mass rush to new-fangled religious homes as well as traditional herbal/ spiritual centres, and the like, would not have featured

prominently as they have done in Nigeria's recent print and electronic media. Indeed, "under and organic state" (if properly understood), peace, security, stability, prosperity would have been achieved at a lesser cost".

### **Incipient Democracy and Federalism**

Indeed, for Nigeria, the creative deployment of federal principles is inevitable in meeting the peculiar challenges of ethnic-religious and cultural pluralism. However, it is only a misguided optimist that would today not accept that, as a federation, the state of our union is not as strong as it should be. The centre and the units are not in harmony, with the president (1999-2007) attempting to treat some democratically elected state governors as if they were his personal appointees, forgetting that in certain constitutional contexts, they are co-equals.

Consequently, a spectre looms over Nigeria's democracy. It is the political instrumentalisation of security agencies to carry out the federal government's agenda, which has resulted in the frightening use and abuse of security agencies, executive bodies and now the Judiciary to intimidate, silence, cow, harass and demonise real and perceived opposition to the federal administration especially state governors. Usually, this is heralded by intimidation, detention, violence and duress of members of State Assemblies by the Economic and Financial Crimes Commission (EFCC) as it sought to oust various state governors. An examination of the role of the federal government in the impeachments of the governors of Bayelsa Oyo Ekiti, Plateau, and Anambra states experiences, will help illuminate this point clearly.

When the former governor of Bayelsa State Diepreye Alamieyeseigha jumped a London court bail following his indictment for money laundering and returned to Nigeria, he incurred public odium and virulent criticism for his actions from within and outside the state. Mr President demanded for his immediate impeachment; a task, which under the constitution, only the Bayelsa State's House of Assembly can accomplish. However, members of the state's assembly did not quite share the president's enthusiasm, while the state's radio was frantically trying to drum-up support for the embattled governor. To ensure that his instruction was acted upon pronto, the president intervened through the Economic and Financial Crime Commission (EFCC). Under the guise of accusation that members of the house accepted bribe from the embattled governor, members of the house were arrested Gestapo style and moved to Lagos ostensibly for questioning. The State own radio station was closed while the state capital came under military siege. In Lagos, the legislators were briefed, ordered to sign an impeachment notice under duress and moved back to Yenagoa, where they sat and the impeachment carried out within thirty minutes.

Also, like in Anambra State, the former governor of Oyo state Rashidi Ladoja, got estranged with his political godfather, Lamidi Adedibu, a friend of Mr. President. Like in Anambra, Mr. President siding with his friend directed the godson

(former governor) to immediately mend fences with his godfather. However, following the reluctance of the former governor to heed the directive, 18 legislators loyal to the godfather out of the 32-member House of Assembly, sat under tight security condom provided by the mobile police force, impeached the governor. His deputy a loyalist of the godfather was sworn into office. Both the impeachment and the swearing-in exercise took just twenty minutes. Under the constitution, a minimum of two-third majority of members of the House, which is 22 and not 18, was required to impeach the governor.

The same pathetic scenario has just played out in Ekiti State. The governor, his deputy, the 26 legislators including the Speaker and the 16 local government chairmen were indicted by the EFCC. The members of the House were accused of allegedly receiving a bribe of N2 million each from the Governor, towards effecting the impeachment of his erstwhile deputy, Abiodun Aluko. They were all arrested and taken to Lagos. This gave rise to strong indications that the intent of the EFCC was to use the legislators to impeach the governor. It was soon reported that the EFCC has allegedly coerced 24 of the 26 members of the Ekiti State House of Assembly, including the Speaker, to endorse the impeachment of the governor (Ibe, and Kudaisi, 2006). From Lagos, the legislators sent a notice of impeachment to the governor, whose impeachment has since been effected in very melodramatic manner. Undoubtedly, it is obvious that the legislators were not free agents. They merely acted parts in a script that was externally drafted. Indeed, the involvement of EFCC, the manner the legislators were quarantined, cajoled and marched to the house has only precedence in the impeachment of former Bayelsa State Governor, Diepreye Alamieyeseigha.

Mr. President has not hidden his desire to get the governor of Plateau State, Joshua Dariye impeached. His only obstacle has been the state House of Assembly who saw the travails of the governor as politically motivated and orchestrated by Mr. President. Following his exasperation with members of the House, Mr. President directed the Economic and Financial Crime Commission (EFCC) to go to work. The EFCC promptly arrested all members of the house some in pyjamas and took them to Abuja, where they were under detention for about a month, despite a court order for their release. Soon, eight members of the State House of Assembly indicated readiness to sign an impeachment notice to be served on the governor (Abdulsalami, 2006). On October 5, eight members of the House of Assembly were driven to Jos amidst tight security; to begin impeachment moves against Governor Joshua Dariye (*The Sun*, 2006) and on the same day, 13 legislators, including Speaker Simon Lalong and his deputy faced trial on charges preferred against them by EFCC. To enable sitting to take place, a protem Speaker was procured and one Mrs Hellen Chundusu presented in place of Mr. Cornelius Shiobial as Clerk of the House. No sooner was the sitting over than the six legislators herded into waiting vehicles amidst tight security and driven back to Abuja (Egburonu, Audu, and Rafiu, 2006).

Governor Dariye was impeached by six members of the State Assembly driven from Abuja at 4.00am amid tight security to the State Assembly, where they sat for 40 minutes and impeached the governor (Taye and Ibrahim, 2006; Abdulsalami, and Abba-Ogbodo, 2006) and they were thereafter driven back to Abuja.

The Nigerian Bar Association while censuring the impeachment as a breach of clear constitutional provisions asserted, "It is sad to note that the mess would not have been possible without the active connivance of the presidency. What is more galling is the fact that there is an existing court injunction restraining the Panel from continuing to sit" (Anaba, and Nwokolo, (2006). Obateru Taye opined that the members of the Bayelsa House of Assembly were also detained for similar offences, but nothing was heard of the allegation again after they co-operated to impeach Governor Diepreye Alamieyesegha. The mockery of democracy is highlighted by intimidation, detention, violence and duress of members of the House of Assembly by the Economic and Financial Crimes Commission (EFCC) as it sought to oust different governors. Thus, the legal effect in all these cases of impeachment and looming impeachments is that it is the will of the federal government and the EFCC and not the clear will of the legislators and thus, the people that is carried out. This point was aptly captured by Omonijo, Bolade when he asserted. "I don't think the federal government should interfere so much in the activities of the states. The state is a different tier of government and should not be located as suborning federal government" (Omonijo, (2006). What is most remarkable about the unconstitutional serial impeachment of the governors, however, is the connivance between the judiciary and the executive on each case. In each state, the Chief Judge either substantive or acting had manifestly stood the constitution on its head just to ensure that the impeachments were carried through, including swearing in new governors at 5.00 am as was the case in Anambra State.

However, nothing can be more perplexing than the situation in Oyo State. As earlier mentioned, Governor Ladoja, had lost his seat unconstitutionally He went to court and won. Rather than allow the judgment of the court to be enforced, the Federal Attorney General and Minister for Justice called a press conference and directed Ladoja to wait till an appeal, which had not even been filed at the Supreme Court was heard. He had been a witness to the dastardly rape of the constitution by various State Assemblies. The opinions expressed by Pini Jason on Friday, November 10, on the Oyo incident and the impeachment in Anambra are so apt that they require quoting extensively. On Oyo State, Jason asserts:

In Nigeria, it is no longer necessary to win a credible election. It is now a matter of happenstance, providence and might. The law that is operative now is: if you can steal, just steal. Chances are that you can keep what you stole, aided by federal might! These days, the end justifies the means. That is my understanding of the position of the federal government as stated on Sunday 5 November 2006 in a press conference addressed by the federal

Attorney General and Minister of justice, Mr. Bayo Ojo. On Anambra he queried, On the unconstitutional impeachment of Gov Peter Obi of Anambra which was done at 5.30 am by a faction of the House of Assembly from their Asaba hideout, does the AG mean that all that matters nowadays in becoming governor is to be sworn in? If a band of armed robbers abducts a governor and swears in someone, that person becomes governor? (Jason, 2006).

Thus, the Nigerian situation (1999-2007) is antithetical to all the known theories and principles of federalism and sustenance of democracy. The centre has, through sustained military-oriented domineering attitude, turned itself into the alpha and omega of the union with the federating units becoming mere appendages to the national process. It thus creates the image of a giant trudging on clay feet dinosaur in the making. The original idea of federalism upon, which our forefathers came together or were brought together under one new political roof called Nigeria have been perverted: the union has in consequence become an instrument of oppression, exploitation and injustice. The travails of the peoples of the Niger Delta as well as their leadership, for example, stem deeply from this perversion of the federal principle by past military juntas and the current democratic dispensation, which has also been enthusiastically perpetuating, if not exacerbating, the anti-federalism and anti-democracy plot.

### **Conclusion**

The central argument of this paper has been that federalism thrives on the rule of law and autocratic rule in all its forms is antithetical to the sustenance of genuinely federal practice. Any thing contrary is mere portrayal of a picture of divided power, intended to hide the reality of monistic, undivided power. The skewed structure of Nigeria's federalism is manifested in the unchallengeable manipulation of statutory intergovernmental revenue sharing in a manner that reinforces the financial hegemony of the federal government, the fiscal emasculation of the States and the severe erosion of the autonomy of the judiciary; thus preventing it from playing its normal federalist role in arbitrating inter-governmental constitutional disputes. This accounts for the acquiescence of States with even extra-judicial laws such as that establishing the EFCC, which is ultra-vires in a federal system and the complicity of top echelon of the Judiciary in the spate of unconstitutional impeachment of irritant state governors by minority factions of some States Houses of Assembly at the behest of the presidency. Thus, Nigeria's current governmental system is federalist in theory but unitary in practice. Consequently, institutions, structures and framework for pluralist governance, are very weak and as deceptive imitations, have proved incapable of sustaining federal practice in the form in which the civilised world has come to know it. This is exemplified by the lingering vitriolic crises in the Niger Delta, captured by that eternal phrase: the National Question - a euphemism for the

disproportional distribution of power and fiscal resources among the various ethnic groups and geopolitical centres, based mainly on the primordial interest of the elites of the major ethnic groups.

In our view, federalism provides perhaps the only avenue for resolving the National Question. A correct application of federalist principles will create symmetry between the country's ethnic nationalities and/or constituent parts and the distribution of political and economic power. But for the Nigerian federation to meet the challenges of governance and management of pluralism, it must pay attention to the question of a federal culture, built on a spirit of dialogue, trade off, negotiation and consensus building. Lacking, this, the survival of the Nigerian State through a federal arrangement is fast becoming an impossible enterprise. In India for instance, this has been accepted as an article of faith hence, despite the numerous disagreements and threats emanating from different religious, social and cultural groups, the Indian federation has weathered the storm through the entrenchment of "federal discourse" which has become the basis of the country's "dialogic" democracy. Until that is done in Nigeria, federalism, as currently practiced, cannot and should not be presented as an ideal model to be copied or emulated by other African governments. The Nigerian experience has shown that the mere adoption of a federal political system does not in itself constitute the practice of federalism. First, federal systems do not provide a way of combining, through representative institutions, the benefits of unity and diversity and are no panacea for societal political ills. Secondly, the degree of efficiency of a federal political system depends on the degree of acceptance of the need to respect constitutional norms and structures with an emphasis on compromise and tolerance. Thirdly, the extent to which a federal system can accommodate political realities depend not just on the adoption of federal arrangements but upon whether the particular form or variant of federal system that is adopted gives adequate expression to the demands and requirements of the particular society in question (Watts, 1994:6).

Federalism presupposes that the various tiers of governments (states and federal) stand to each other in a relationship of sufficient independence of (constitutional) powers and (fiscal) resources to support the structure of government to stand on its own against the other. Therefore, from the separate and autonomous existence of each government and the plenary character of its powers, within the sphere assigned to it by the constitution, flows the doctrine that the exercise of these powers is not to be impeded or obstructed or otherwise interfered with by the other government acting within its own powers. The foregoing presupposes that in a federal system, there must necessarily be more than one level of government. However, since 1966 when the army struck till date the practice of federalism in Nigeria has been skewed in favour of unitarism, with the federal government firmly bestriding the Nigerian polity like a colossus and putting federal tenets and principles at Bay.

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