

Restructuring And Clamour For 'True' Federalism In Nigeria: A Comparative Analysis

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ABSTRACT

Federalism has been given several meaning such that the new lexicons on the subject in Nigeria are 'true' and restructuring. However, the concept has more of a normative dimension than an empirical interpretation. This makes it difficult to generalize across the various political systems that have adopted a federal system. The primary aim of federalism is to accommodate diversity in a single entity. The challenge however lies in the underlining principle of federalism that will be suitable in resolving salient political issues in these societies. The debate often has resolve around the ideal model of federal arrangement that is suitable across time and space. While there have been diverse perspectives of federalism and its operations, consensus on the ideal model is still lacking. Thus, bringing to the fore arguments that federalism is a means to an end and not an end in itself. Consequently, the issues that necessitate the adoption of federalism should be the emphasis of the principles of federalism and not the adoption of a model that may not adequately capture the peculiarities of those societies. This paper attempts a conceptualisation of the concept and makes a comparison of its practice in United States of America and Nigeria.

Key words: Federal principle, Instrumentalities, Regulated Federalism, Restructuring.

INTRODUCTION

The term "federalism" has come to mean different things to different people across time and space. While some see it as the answer to the challenges pose by the plural nature of their society, others see it as the limitation to their progress and development. This has created an issue for scholars in the field of political science as they attempt to capture all the nuances of the concept and present an empirical dimension of it. Early attempt at defining the concept has been met with criticism from within and outside the domain of political science. This was due to the normative and philosophical contents of these definitions which made it difficult in applying it across most countries desiring to seek union within diversity.

Burgess (2006:1) argues that "while such a thing as federal theory does exist, there is, as yet, no fully fledged theory of federalism. At best there is partial theory based on rigorous conceptual analysis and the pursuit of terminological precision. At worst there is crass empiricism rooted in the failure to develop concepts and define the key terms". This brings to question the notion of 'true federalism' been championed among the political class in Nigeria as a means of restructuring the country. Their argument is premise on the restructuring of the country's federal arrangements by allocating more powers to the federating units and reducing

the overbearing dominance of the centre. This does not have any theoretical bases as most of such people take their facts from the practice of federalism in the United States of America ignoring the peculiarities of the Nigerian society.

In order to avoid the pitfalls associated with those who have a voice but lack an in-depth knowledge of the subject, this present discourse is an attempt at providing a conceptual clarification of the concept of federalism. This will be followed with a discussion of the contemporary major works done on federalism, notably the works of K.C Wheare, William Livingston and William Riker. While this is not an exclusive list of the works done on federalism, the intention is to put in proper perspective the principles guiding federalism. The next section will focus on the practice of federalism in developed and developing countries with the intention of identifying similarities and differences. Thus aiding our understanding of what makes a federation successive or fail. The two countries chosen for this purpose are the United States of America and Nigeria. The last section will be a conclusion.

CONCEPTUAL CLARIFICATION OF FEDERALISM

According to Watts (1990:6), three terms are distinguishable in the explanation of federal system of government; federalism, federal political systems and federations. He explains federalism as a concept that is basically not descriptive but a normative term that refers to the advocacy of multi-tiered government combining elements of shared-rule and regional self-rule. It is based on the presumed value and validity of combining unity and diversity and of accommodating, preserving and promoting distinct identities within a larger political union. The essence of federalism as a normative principle is the perpetuation of both union and non-centralisation at the same time. The emphasis here is that the term federalism connotes a desire by a group of people who have distinct identities to come together in a political union without losing their distinct identities. It is normative in the context that there is no empirical state of federalism rather it is an abstraction people aspire to attain.

In contrast to the normative value of federalism, 'federal political system' and 'federation' are regarded as descriptive terminologies. According to Watts (1996), federal political system refers to a broad category of political system in which by contrast to the single central source of authority in unitary system, there are two (or more) levels of government thus combining elements of shared-rule through common institutions and regional self-rule for the government of the constituents units. He further explains federation as a system in which neither the federal nor the constituent units of government are constitutionally subordinate to the other i.e each has sovereign powers derived from the constitution rather than another level of government, each is empowered to deal directly with its citizens in the exercise of its legislative, executive and taxing powers and each is directly elected by its citizens. The federal political system is therefore a concept that encapsulates a broad spectrum of political arrangements, since it is only significantly differentiated from the unitary system on the basis of the character of authority that exists between the central government and other levels of government.

Federalism as a concept in political science is not immune to the lack of consensus on its definition. Despite the numerous definitions ascribed to it, there is an agreement among scholars that it is a way of sharing power between the central and constituent units. One of the founding fathers in the study of federalism is Kenneth Wheare (1946). He defined federalism as a system of government in which there is a division of functions between co-ordinate authorities, which are in no way subordinate one to another either in the extent or in the exercise of their allotted functions. In achieving this kind of arrangement, Wheare submits that there would be "the method of dividing powers so that the general and regional governments

are each within a sphere, coordinate and independent. He listed the following as the essential ingredients of federalism:

- a) Division of power among other governments;
- b) A written constitution showing the division of powers;
- c) Coordinate supremacy of two order of government with regards to their respective functions.

However, Wheare's definition of federalism has been criticized for been too legalistic and restrictive. The argument is that his explanation does not take cognizance of the peculiarities of federal political systems on the basis that, not all political system are the same. Furthermore, there is also the import of ignoring the socio-cultural peculiarities of the people. Thus, while these sets of political system may adopt a system that recognizes the existence of more than one level of government, the patterns of practicing federalism are varied.

CONTRIBUTIONS OF K.C WHEARE, WILLIAM LIVINGSTON AND WILLIAM RIKER TO THE DISCOURSE ON FEDERALISM

The first major contemporary work on the concept of federalism was Federal Government by K.C Wheare (1946). In his book Wheare's views of federalism was couched in legal and institutional terms. His 'federal principle' is defined as 'the method of dividing powers so that the general and regional governments are each within a sphere, coordinate and independent'. Accordingly, the criterion of the federal principle is not so much that federal and constituent state governments operated directly upon the citizens but whether or not the powers of government are divided between coordinate, independent authorities. Wheare acknowledged that this definition was rigid and it is true that this rigidity extended to the point where he could confidently claim that any definition of federal government which fails to include the United States would be condemned as unreal.

While Wheare's (1946) perspective of federalism has been criticize on the grounds that his definition of the federal principle is too narrow, the excessive legal approach and undue reliance upon the American experience, there are still some major merits in his work. Notably among the merits of his work is the reshaping of the studies done on the concept of federalism. Arguably, his was considered the first detailed and comprehensive attempt rigorously to compare the federal constitutions and governments of USA, Canada, Australia and Switzerland. This is perhaps the reason why most contemporary studies of federalism still make reference to his work. Notwithstanding, a noticeable flaw in Wheare's approach is the specific on federal government- why they were formed, how they were organized and how they work- rather than at the larger picture of federalism and federation.

A notable change in the study of federalism and federation came in 1952 when William Livingston published the article; "*A note on the nature of federalism*" in Political Science Quarterly. He criticized existing approaches to the study of federalism and federation for their almost exclusive legalism. Legal answers, he argued were of value only in the solution of legal problems and federations was concerned with many other problems than those of a purely legal nature. According to him, "the essential nature of federalism is to be sought for, not in the shadings of legal and constitutional terminology but in the forces-economic, social, political, cultural- that have made the outward forms of federalism necessary. The essence of federalism lies not in the institutional or constitutional structure but in the society itself. Federal government is a device by which the federal qualities of the society are articulated and protected. Put simply, Livingston (1952) stated that even the most profound analysis of constitutions, legal systems and political institutions could not inform the observer about the society served by them. The nature of the political society could be examined only by observing

how the institutions worked in the context of that society, it was their operation not their form that was important. Federalism was a function not of constitutions but of societies.

Thus, Livingston's emphasis was on the society and not the legal framework that establishes a federation. It was within this context that he introduced the term "instrumentalities". The term is an encapsulation of not only of constitutional form but also the manner in which the form was employed. In other words, the way in which the constitution and its institutions operated in consonance with a whole host of non-constitutional matters such as 'habits, attitudes, acceptance, concepts and even theories. Therefore, the determination of whether a country was federal or not should not be evaluated using the country's constitution against a predetermined list of characteristics of a federal constitution. Livingston suggested an evaluation of the pattern of instrumentalities.

William Riker (1964) in his book/article "Federalism: Origin, Operation, Significance" was of the opinion that federalism resulted from a 'constitutional bargain'. This he claimed begins with the offer by prospective national leaders and acceptance of offer by officials of the constituent governments "for the purpose of aggregating territory, the better to lay taxes and raise armies". The bargain forms the bases of a federal constitution which must have the following criteria:

1. Two levels of government ruling over the same land and people,
2. Each level must have at least one area of action in which it is autonomous,
3. There is some guarantee of autonomy of each government in its own sphere

(Riker 1964)

Riker's perspective appears to share certain similarities with Wheare particularly with emphasis on a federal constitution as a distinct feature of a federation. However, Riker differ from Wheare in that he focused on the process leading up to the formation of a federal system. This is why Riker is considered as one the notable scholars who attempted a generalization on the origin and formation of a federation.

A closer look at the works of these three scholars will reveal the diverse nature of their attempt in defining and explaining the concept of federalism. Each attempted to put in proper perspective the principles of federalism. However, they fell short of arriving at a consensus which is seen as the bane of concepts in the social sciences. Riker (1969:142) came to the conclusion that;

Federalism qua federalism is significant at the beginning of a central government as a way to bring in regional governments with the promise of autonomy. Once the central government is actually in operation, however, what maintains or destroys local autonomy is not the more or less superficial feature of federalism but the more profound characteristics of the political culture.

This view summarizes the challenges inherent in defining and explaining federalism. The variables determining the success or failure of a federal system lies not in the tenets of the concept but on variables that determine the political behavior of the operators.

THE PRACTICE OF FEDERALISM IN A DEVELOPED COUNTRY: UNITED STATES OF AMERICA.

The practice of federalism in the United States of America is often show cased as the ideal model. The major criticism against K.C Wheare's work as exemplified in his book was that he exalted the practice of federalism in America as the ideal. Consequently, any country operating a federal arrangement whose modus operandi does not align with that of the USA could not be

termed a federation. However, studies done on the practice of federalism in America has shown that the system has evolved from a pattern of dual sovereignty to regulated federalism. The cause of this evolution could be attributed to several factors, one of which is the changing political space which has necessitated new strategies for dealing with them. Historically the genesis of the American federalism could be traced to the coming together of independent states in the 17th century to form a confederation. This was based on a weak central government with limited powers while the member states retain a high level of political autonomy. The implication of this arrangement was that the legislature, Congress lacked any real legislative powers. On the contrary, it was a forum for member states to discuss issues and decisions were not binding on members. According to Hanley (2014) "The Congress of the United States was more of coordinating body, a place to try to negotiate agreed upon actions, than an actual legislature". The articles of confederation which created this arrangement soon gave way to a Constitution that established a Congress with actual legislative powers. The framers of the constitution sought for a political system in which each level of government within its sphere is independent and coordinate. This was the federal principle Wheare (1946) referred to as the fundamental principle in operation in a federal constitution.

At the onset, the sphere of jurisdiction of each level of governments was distinct. The federal government had its 'sphere of sovereignty', likewise the states. This period was referred to as the era of dual sovereignty. However, this system soon gave way to cooperative and regulated federalism. The great depression of the 1930s and other pertinent issues gave rise to the call for a more prominent role for the federal government. During the great depression, the American economy was brought to its knees and state governments were handicapped in solving it. The Congress at the prompting of President Franklin Roosevelt began to pass more far-reaching regulations. Initially, the Supreme Court ruled against these regulations on the ground that the federal government had gone beyond its sphere of jurisdiction. However, subsequent judgments of the Supreme Court were in favour of the federal government. This altered the dynamics of federal-state relations in America. According to Hanley (2014:4) "The key to the change was not an amendment to the constitution but simply a reinterpretation of what interstate commerce means". In other words, constitutional provisions that were given certain interpretations by the Supreme Court were re-interpreted in the light of new circumstances. This made Elazar (1987) state that Supreme Court judgments have the potential of changing the character of the American federation from a 'matrix of larger and smaller arenas' to a hierarchical system. The consequence was that the responsibilities of the federal government expanded at the detriment of the state governments.

By the 1950s, the federal government saw the need to incorporate the efforts of state government in executing large scale political and economic programmes than acting alone. This new direction in federal – state relations was encapsulated as the era of Cooperative federalism. Clark (1938) in his study of federalism in America observed that:

Cooperation between the federal and state governments is one solution of the difficulties caused by the governmental attempt to regulate the centripetal forces of modern industrial life and the centrifugal elements of state interest and tradition.....Traditional and even mythical interest cannot be swept away overnight. There is nevertheless, need for reconciliation of those who are bewildered by the chaos of forty-nine separate governments and administrations acting in similar fields of control and those who.....fear centralization of either authority (or) administration or both. Cooperation..... Offers means for determination of how far uniformity and a national minimum in the federal government may exist side by side with opportunities for experimentation by and within the states.

The above quotation adequately captures the need to institute partnerships between the federal and state governments towards the realization of national goals. This led to the establishment of the U.S Advisory Commission on Intergovernmental relations in 1959 and the enactment of the Intergovernmental Cooperation Act (1968), Intergovernmental Personnel Act (1970) and General Revenue Sharing (1972) (Kincaid, 1990:140)

The evolution of federalism in America did not stop with Cooperative federalism. On the contrary, as new challenges occurred, the dimension of federalism also changed to accommodate them. This led to what scholars of American federalism refer to as Coercive or Regulated federalism. The hallmark of this era was that rather than allow for states to choose which cooperative venture they want to enter into, the federal government adopted measures of coercing or 'bullying' the states into adopting its policy standards. This was perpetuated through the use of fiscal measures or mandates that surreptitiously compel state governments to 'toe the line'. Kincaid (1990:148) observed that "the number of federal preemptions of state and local authority more than doubled after 1969". Preemption is the displacement of a state law by a federal law. Although, there were attempts at reducing federal government expansion and reforming of the sphere of Intergovernmental relations, not much was achieved. These made Kincaid (1998:13) conclude that "the devolution revolution of the 1990s in United States intergovernmental relations is plodding along at a turtle's pace while centralization is still racing ahead at a rabbit's pace". Under regulated federalism, Hanley (2014) describe two means through which the federal government compels state compliance. One is through the use of mandates. This involves the setting of national standards by the federal government and mandating states to meet these standards. Two is to get state to compile in exchange for financial incentives.

While the brief description above is not an exhaustive discourse of the practice of federalism in United States of America, it highlights certain salient features. First of all, the practice of federalism in America has been evolving based on the issues generated within those periods. Secondly, it has tended to focus on the jurisdiction of each tier of government and how it has affected the relationship between them.

THE PRACTICE OF FEDERALISM IN A DEVELOPING COUNTRY: NIGERIA

While the study of federalism in America dwelt more on the jurisdiction of each tier of government and managing intergovernmental relations, federalism in Nigeria was adopted as a means of managing the country's diversity that cut across ethnic and religious lines. These cleavages have the potential of tearing the country apart as each group suspect the other group could use the apparatus of the state to dominate them. Olowu (1991:156) in his review of literature on federalism in Nigeria identified eight issues that have received considerable coverage. These are "background to federalism, requisites of federalism, federalism versus other forms of association, units in the federal system, fiscal issues, political parties, distributional strategies (e.g representatives, merit and federal character) and intergovernmental relations". These issues basically serve as the crux of this discourse on the practice of federalism in Nigeria.

In the study of federalism in Nigeria, scholars have expressed different perspective on why the country adopted a federal arrangement. While some view it as a colonial imposition (Falola, 1988 and Osuntokun 1979), others are of the view that it was compromise reached among the regional political elites (Awolowo, 1966). Notwithstanding, its adoption has necessitated further enquiries into how to make it work. The initial system of government was the West Minster parliamentary system which had a ceremonial President as Head of State, Prime minister as Head of Government and Premiers overseeing the regions. The system was short

live as the military struck in 1966 through a Coup d'état. The military continued in power until 1979 when general elections were held and a civilian government was installed in power. The military however adopted a presidential system of government as against the parliamentary system. Similarly, it created states from the four regions that served as the initial federating units. While several reasons could be adduced to why the military introduced such measures, most observers agree it is a fall out from the civil war. The presidential system guarantees clear separation of powers while the break-down of the regions into state would prevent future attempts at secession.

In the area of fiscal federalism, the country has had to battle with so many contending issues on how to share the nation's wealth. Arowolo (2011:9) opined that fiscal federalism in Nigeria is "characterised by constant struggle, clamour for change and very recently, violence in the form of agitation for resource control in the Niger-Delta". Clearly, this is one of the volatile areas of Nigeria's federal practice. Ewetan (2012:1084) identified the following problems of fiscal federalism in Nigeria:

1. Dominance of the federal government in revenue sharing from the federation account,
2. The centralist system of fiscal relations,
3. Critical issue of over dependence on oil revenue,
4. Conflict over sharing principle and
5. Disharmonious federal-state relations.

Clearly the issue of fiscal relations among the tiers of government has remained controversial and often the bases for the clamour for a restructuring of the federal structure. For instance, the present economic recession in the country and dwindling oil revenue have hindered the ability of many states in paying salaries of their civil servants. The federal government had to bail out the states by providing funds for them to pay salaries (Premiumtimes, 2016). This in a way negates the principle of fiscal federalism whereby each tier of government is supposed to be financially independent.

The argument in the literature is that the revenue sharing formula is lopsided in favour of the federal government. In the words of Tamuno (1998:13) "before and since the era of formal federalism in Nigeria, from 1954, the fiscal relationship between the center and periphery resembled the roles of a householder and housekeeper". The aggregation of financial resources at the centre started before independence but was consolidated by military rule. The consequence today could be seen in the over dependence of states on allocation from the federation account.

Another prominent aspect of federalism in Nigeria is the pattern of relationship that exists among the tiers of government in the country. According to Adedeji (2017):

The framework of intergovernmental relations patterned by the 1999 constitution is one that creates a hierarchical relationship. Although the constitution establishes several institutions to facilitate relations among the tiers of government, its leadership is vested with the Federal government. Therefore depending on the disposition of the political actors at the Federal and State level, the constitution has given the former undue advantage over the latter.

Akinsanya (2005: 286) observes that the above situation creates a de jure federalism and de facto unitarism. While there are so many intricacies in the practice of federalism in Nigeria that could not be fully discussed in this paper, it has been observed that the system is still evolving, as federalism is not an end in itself but a means to an end. The challenge therefore is

how the political actors at the federal and state levels could evolve strategies that will address issues and not complicate the federal arrangement.

CONCLUSION

The aim of this paper is to provide a theoretical insight into the concept of federalism by examining the philosophy guiding it and the practice in selected countries. Findings revealed that there is no consensus on the principles of federalism which brings to question the clamour for a return to 'true federalism' in Nigeria. What exist are principles that work better in a particular environment and could not be generalized to all federations. As Burgess (2006:1) noted, "To understand federalism and federation fully and to comprehend its many faces, then, would be impossible. It has therefore a certain elusive quality about it". The import of this statement is that we cannot fully understand the dynamics of federalism. At best, new issues that arise in federations are address by contemporary measures that may not have bases in 'traditions' of federalism. The emphasis therefore is how these measures address issues inherent in plural society than on whether they deviate from the foundational principles of federalism. In the words of Riker (1969 cited by Burgess, 2006:38) federalism was "no more than a constitutional legal friction that could be given whatever content seemed appropriate at the moment".

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