

Quest for true Federalism in Nigeria

By [Oziegbe Okoeki](#)

It is a truism that a functioning democracy requires a continuous process of discussion between all government institutions and the civil society. The 1999 Constitution of the Federal Republic of Nigeria mandates government by democratic legislatures, and an executive **accountable** to the people. At the Federal and state levels, by its nature, the need to build and strengthen institutions sometimes necessitates compromise, negotiation, and deliberations. It is generally **accepted** that the term federalism is a structure of government whereby several independent states or other **forms** of geo-political entities come together in an agreement for common defense and other interests.

The various entities remain independent but submit to an agreement to protect one another and to allow a federal government to regulate certain areas borne out of necessity of a common union.

Nigeria has avowed itself to be a federal state. According to Section 2(1) of the 1999 Constitution, Nigeria is one indivisible and indissoluble sovereign state to be known by the name of the Federal Republic of Nigeria. Subsection 2 of the same section also provides that Nigeria shall be a Federation consisting of states and a Federal Capital Territory. Each tier is assigned respective spheres of jurisdiction by the constitution. A written constitution as we have in Nigeria ought to **promote** legal certainty and predictability. It also needs to provide a foundation and a touchstone for power sharing and interplay between the **center** and all federating units.

One thing is clear in a federal system of government, the tiers of government ought to share political power as expressly spelt out in the constitution. Unfortunately, the current foundation and principles on which our constitution is operated over the years particularly since the advent of democracy has not in any way practiced a true federalism in its practical sense.

Assuming it is agreed that we actually practice a federal system, it follows that the relationship between democracy and federalism means there may be different and equal legitimate interests in different units and at the federal level.

A federal structure is not devoid of intrigues between the central and federating units. Many people may have only **read** political undertones to plethora of cases the Lagos State government has brought against the Federal Government. But I see it differently in a more pragmatic sense. In a true federal structure, there are bound to be power-sharing problems between the centre and the federating units. Such power sharing problems relates to a variety of issues that cut across collection of taxes, local government creation, authority to issue licences, maintenance of infrastructure like roads and edifices, resource **control** etc.

Amongst the 36 states of the Federation, Lagos State stands out in **terms** of its ability to test the true state of our "so called" federal structure as practiced under the 1999 Constitution. This is obvious from all the cases so far filed and prosecuted by the Lagos State government against the Federal government. I heard Lagos State is using the courts to endorse its rightful authority to

collect certain taxes that were hitherto collected by the Federal Government. The same way, it is challenging the Federal Government's power to issue drivers licenses to persons under its area of jurisdiction. While marking his 800 days in office, Governor Babatunde Fashola (SAN) blamed the incessant strike in our universities on a faulty federal system as currently practiced in Nigeria. I agree with the governor when he said that federating units should be competent to take decisions in their areas of constitutional authority without any adverse consequences from the decisions taken by the Federal Government'

In a true federal system, it is not out of place for the judiciary, which is the third arm of government to interpret cases brought before it by either the central or its federating units. It must be poised to intervene in cases where there exist such problems between the central and its federating units. Unfortunately, Nigerians still perceive issues between Federal and states as having political undertones whereas the true test in a federal system is continuously defined and strengthened when the judiciary espouses and decides on issues bordering on the terms and conditions. In the United States for example, the courts have clearly defined in plethora of cases the relationship between the central and its federating units. Decisions in cases bordering on tax laws, revenue, secession, development of infrastructure and resource control have gone a long way in setting the federation on very sound pedestal.

In my view, the current brouhaha between the Federal Government and Lagos State government on local government creation is a good development. In fact we need such novel cases to put things right under the present dispensation. The constitution has made it clear who has the power to create new local government councils between the Federal and the state legislatures. In a true federalism, an arm of government at the centre must endorse in true faith or approve a constitutionally and procedurally correct process, which has been duly completed at the state level and not to truncate it.

Without acceding to the level of criminality that has redefined the long agitations in the Niger Delta region; such genuine agitations are not misplaced in a normal federation. For example, Nigeria as a federation has signed and ratified sub-regional, regional and international instruments on human rights and fundamental freedoms. One of such instruments is the International Covenant of Civil and Political Rights otherwise known as the ICCPR. According to Article 1 of the ICCPR, 'all peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development'. Also Article 2 provides that, 'all peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of their international economic cooperation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence'.

As elaborated by the United Nations, peoples entitled to self-determination could not only cast off their metropolitan overlord but also determine their political status through the exercise of their collective will. The International Court of Justice has defined it as "the need to pay regard to the free expressed will of peoples".

It is useful to mention that before now, self-determination was more related to sovereignty and decolonisation. But after decolonisation, sovereignty became distinct from self-determination. So the decolonisation movement was the opening gate for the right to self-determination. The right to self-determination having accomplished its aim after the post war era and the decolonisation of African states, advocates feels the dire need to give it a different meaning. In this respect, advocates look at its internal dimension – the role of self-determination in ensuring good democratic governance and sustainable development. It follows therefore that people of the

Niger Delta other than a sovereign state can claim their right to self-determination i.e. control over their own resources.

Apart from reasons of common defense and other interests, federalism is centered on the principle that understands the intrigues and needs of a particular locality, which is key to effective governance. Therefore, it means that by making laws at the level of federating units, the legislators can take advantage of local knowledge and opinions, whilst also lightening the load centrally for governance on other issues. Ultimately, in theory, federalism satisfies the will of the people more accurately than a purely centralised system of governance, which is one of the many reasons it has become so popular in recent years.

Most importantly federalism lightens the load of legislature at the centre, freeing up national level politicians to consider more strategic rather than operational matters. This frees up resources and streamlines the process overall, although it does bring with it some complexities created by another strata of authority. Addressing or resolving such differences can only be achieved if the legal system is well structured and defined in a codified form. It could make for more efficient governance and an overall fairer political and legal system.

The ongoing attempts to reform the constitution in Nigeria are a welcome development. The pronouncement of the courts on issues affecting the central and its federating units is also key to redefining Nigeria's federal status in the comity of other federations. Lagos State has done marvelously well in this respect. It is sad that the resource control case once filed by some governors brought strained relationship between some states and the federal government headed by the then president Olusegun Obasanjo whereas such governors ought to have been applauded for their thoughtfulness and doggedness in efforts to recreate and redefine the Nigerian state.

Unfortunately some were perceived as enemies of the federal government while some were persecuted and by hook or crook removed from their offices.

Bringing sentiments and political colorations to issues bordering a true federalism in Nigeria has been the bane of achieving a bottom-up approach to development, which Nigeria is in dire need of.

It must be said in clear terms that if Nigeria is desirous to practicing a true federalism that we all know, it is expedient that it begins to willingly and genuinely redefine the constitutional framework under which it currently operates. A system where the Central government compels federating units to accept what is thrown at them is obviously an aberration to generally accepted characteristics and principles of federalism. It is even worse where units are forced by the central government to surrender some of its powers and areas of competencies without due regard to appropriate consultations, deliberations and agreements. It is sad that such deliberations and negotiations are not part of the Nigeria's constitutional history. Until we eschew such bitterness as exhibited by the last administration which unfortunately is rearing its ugly head in the present regime and face the realities of our situations, it may be extremely difficult to wriggle out of our current pathetic and sorry state let alone achieve some basic millennium development goals.

In a true federal democracy, no one unit in the federation has monopoly of truth. It is a system that is rightly predicated on the faith that the end result of the inter play amongst the central and federating units is that the best solutions to the public problems will rise to the top. It is playing an ostrich to believe that there will exist units without divergent views and positions on actions or inactions of the central government as its affect their existence. A federal system of government must be committed to consider those divergent views, and seek to acknowledge and address them within a generally accepted legal framework by which all the people in the federating units must live and realize their potentials.

We should shed this bitterness generated along political lineages and focus more on how to run an efficient central government and preserve national unity while still allowing free hand for all the diversities that forms the federation.

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