

NEW STATE CREATION IN NIGERIA WITHOUT POLITICAL RESTRUCTURING AND GOOD GOVERNANCE: ASSESSING THE IMPLICATIONS*

Abstract

Beyond the threat of insecurity saga and quest for state police currently going on in Nigeria, no issue commanded a significant concern in the contemporary Nigeria than restructuring and good governance. These we believe will effectively address the numerous anomalies threatening the corporate existence of the polity, thus awaken the nation to compete favourably with world nations in world politics and development. To tackle these problems, the work adopted a doctrinal research methodology. The approach is analytical and also employed primary and secondary sources of information to drive home the points. The findings of the study showed that pseudo federalism, defective Constitution and bad governance topped other reasons for agitation for restructuring and good governance. Accordingly, the paper, recommended the adoption of a true federalism, through the enactment of a new Constitution that is participatory, and genuinely reflected the aspirations of the citizenry and good governance. These we believed would reduce the wide gap between the centre and the units, douse the agitation in the polity and enhance development, before a new state creation would be considered. The paper concluded that doing otherwise may amount to exercise in futility.

Keywords: Federalism, Constitution, Restructuring, Good Governance, State Creation in Nigeria, Marginalization.

1. Introduction

The advent of British colonization and the unification of two irreconcilable protectorates of the Northern and southern Nigeria in 1914 otherwise called amalgamation for mainly the economic empowerment of the British saw the introduction of federalism and modern democracy. Federalism became prominent from 1954 Constitution under the Littleton Constitution. The 1954 Federal Constitution apart from being the British efforts to find a unifying Constitution for the heterogeneous nations lumped together was also the product of two conferences held in London in 1953 and in Lagos in 1954 by the Nigeria political leaders.¹ whose quest for independence at the material time was over bearing and worrisome on the British imperialists.²

The British lumped and handed to Nigeria in 1960 a country with heterogeneous characteristics steaming from diverse languages, religion, food and dressing as a federal state. In 1960 Nigeria become independent and became a republic nation in 1963, prospered for a while when the country experienced a miniature of democracy and federalism. During this period the country was divided into regions of Eastern, Northern and Southern region and later, Mid-Western region was created. The three regions had regional constitutions and were also allowed to have regional police force. The Northern and Western regions explored these options minus the Eastern region.

In this era also, federalism progressed while the dividends of democracy were felt. There was for instance competitive development especially in agriculture. The East were known for palm produce, the North were famous in production of groundnuts, hence the famous ground pyramid and the West was good in coca production. However, the development short lived because the foundation laid by the British imperialists was a mirage and deep down in their hearts and evidence thereon, Nigeria was never meant to succeed. This is so when we consider some utterances and events that took place in the past and now especially from the North. Illustrative is the statement ascribed to one of the founding fathers of Nigeria and it says:

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¹ A. O. Omotesho, 'Historical Overview of Constitutional Development of Nigeria' *National Judicial Institute Law Journal* [2020] (3) (38) 38.

² A. Akpunonu, 'True Federalism in the Democratic Governance of Nigeria, the Panacea for National Integration and Development' *COOU Law Journal* [2024] (9) 85.

The new nation called Nigeria should be an estate of our great grandfathers ... We must ruthlessly prevent a change of power. We use the minorities in the North as willing tools and in the south as conquered territory and never allow them to have control over their own future.³

For some Nigerians, the lumping together of different ethnic groups with diverse cultures who in their right would stand for a nation is a forced brother and sisterhood which has the subject of continued tinkering and panel beating and even attempted dissolution.⁴ An eminent Nigerian political actor described the product of the experiment as a mere geographical expression.⁵ On the hand, Ahmadu sees the creation of Nigeria as the mistake of 1914.⁶

Apart from the individual utterances, the two protectorates 'did not see eye to eye' with each other. There were suspicious and counter-suspicious. The British succeeded in bequeathing to the Nigeria wards enduring legacy of mutual suspicion and contempt.⁷ The North perceived the South as uncivilized pagans, undisciplined, rowdy and nakedly materialistic. Whereas the South ridiculed the North as feudalistic, conservative, illiterate, pliant tools of the colonial master.⁸ The antagonistic duality was so deeply ingrained in the Nigerian that Chief Awolowo saw the two parts as divergently oriented.⁹ It may not, therefore, be an over statement to state herein that the 1967 civil War was partly an outcome of the severe ethnic rivalry over claim and counter claims of domination, the 1951 political arises between Action Group (AG) and National Council for Nigeria and Cameroon (NCNC) and marginalization,¹⁰ from different quarters, especially from the Niger Deltans whose soil lays the golden eggs (the crude oil).

The Civil war lasted from 1967-1970 while intermittent military intervention and leadership persisted up until 1999. While the military rule lasted, it swept under the carpets many of what may be termed dividends of democracy and principles of federalism, such as social welfare, justice, equity, fairness, accountability, transparency, fundamental rights¹¹ There were also lack of coordinate leadership and devolution of power and in place of these autocratic leadership with power and might became the order of the day, whereas rule of law was relegated to the background. The eventual hand over of the military rule to civilian rule by the then interim Head of state, General Abdusalam Abubakar to Obasanjo (a retired military) in May 29, 1999 with a supposed civilian Constitution gave citizens another hope of realizing the dividends of democracy,¹² and benefits of federalism.

Unfortunately, the Constitution was faulty with many defects and above all lacks the mandate of the people who supposedly own it. Rather it was enacted by the then interim Head of State, Abdusalam Abubakar and the cohorts to meet their desires. As for the leadership, like the predecessors, it lacks accountability, transparency and rule of law and trade more in corruption and these defects worsened as subsequent leadership emerges. All these were the result of poor foundation laid down by the British imperialists to ensure that Nigeria did not succeed. We, therefore, adduce that only political restructuring of the system supported with good governance could remedy the ills of the polity. To this event, making a move for new states creation without restructuring and good governance will only result in an exercise futility because, one cannot place something on nothing and expect it to stand.

³Ahmadu Bello, the Sadauna of Sokoto, *The Parrot Newspaper*, 12 October 1960.

⁴J.A.A. Ayoade, 'Federal Character Principle and Search for National Integration' in Amuwo Kunle (eds) *Federalism and Political Restructuring in Nigeria* (Ibadan: Spectrum Books Limited 2000) 10.

⁵Obafemi Awolowo, *Path to Nigeria* (London: Fabar and Fabar 1947) 7

⁶Ahmadu Bello, *My Life* (London: Cambridge University Press 1962) 133.

⁷J.A.A. Ayoade in Amuwo Kunle (ed). (n4) 101.

⁸Bello Ahmadu, *My Life* (n 6) 37.

⁹Obafemi Awolowo (n 5) 42

¹⁰ See further Suberu and Agbaje in Dele Babalola and Hakeem Onapajo for details of this information.

¹¹A.C. Akpunonu, (Practice of Democracy in Nigeria: Challenges and Prospects, *International Journal of Comparative Law and Legal Philosophy* [2021] 3 (3) 164

¹² Ibid.

2. Federalism

The word federalism is derived from the Latin word ‘foedus’ meaning alliance or treaty. An alliance or treaty presupposes the separateness of the allying parties who now decided to act in togetherness...¹³ Albeit, the concept of federalism is among the terms that lacks universally accepted definition. Therefore, it is not surprise to see authors, writers and courts and others define the concept according to their background and perceptions. To this effect the diversity ascribed to the concept of federalism is acknowledged in *Attorney General of the Federation v Attorney General Lagos state*,¹⁴ as the relationship and distribution of powers between the individual state and the national government, which is at the centre. In the case of *Chief Adebisi Olafisoye v Federal Republic of Nigeria*.¹⁵ where the Supreme Court was called upon to determine the constitutionality of the Independent Corrupt Practices and Other Related Office Act. The court while delivering the judgement defines a federal government to mean what the Constitution writers say it means.... In *Attorney-General of Abia State v Attorney-General of Federation*,¹⁶ the judicial meaning of federalism is stated as a legal political concept which generally connotes an association of states formed for certain common purpose, the state retaining a large measure of their original independence or autonomy . . . The definition also offered by Wheare apart tailoring to power sharing among the units of government also provides what are regarded today as the federal principles and these include:

- i. The division of power among levels of government.
- ii. Written Constitution showing this division.
- iii. Coordinate supremacy at the two levels of government with regard to their respective functions.
- iv. Existence of an arbiter outside the levels of government (Supreme Court or Constitutional Court).¹⁷

The diverse definitions of federalism align with our earlier stand, which is that there is no universally accepted definitions of concept of Federalism. However, what is common among different definitions of federalism is that federalism entails power sharing among the constituent elements that made up the whole and a supreme constitution which provides for allocation of these powers.

3. Structure of Nigerian Federalism

Federalism is often associated with a written and rigid Constitution. In a federal state, the Constitution is the *grundnorm* and so to access the true nature of a federal state, the assessment of the constitution-making, and the basic provisions of the Constitution of a particular state provides the answer to such inquiry. To this event therefore, the process of constitution-making of the Federal Republic of Nigeria 1999 (as amended) and the basic provisions provide insight to the truism or otherwise of practice of federalism in Nigeria. Bearing in mind that no two federal states are therefore, looks at the basic elements and practices common in a federal state such as nature of constitution-making, power-sharing among the units, independent of the judiciary, internal security, rule of law and fundamental rights, resources control and fiscal federalism using the US, and Germany as examples. Be that as it may, the work looks at some of the basic elements and practices common in a federal state like the US such as nature of constitution-making, power-sharing among the units, independent of the judiciary, internal security, rule of law, resource control and fiscal federalism vis-à-vis Nigeria.

¹³A I Okafor and D O Amucheazi, The concept of Time Federalism in Nigeria in Akpunonu AC, ‘True Federalism in the Democratic Government of Nigeria: The Panacea for National Integration and Development’ *Chukwuemeka Odumegwu University Law Journal* [2024] 9(9) 84

¹⁴ [2013] LPELR – 20974 (SC)

¹⁵ [2006] 4 NWLR (Pt 864)

¹⁶ [2006] 16 NWLR 265. See also Lord Halden’s definition of federalism in *Attorney-General for Commonwealth of Australia v Anache* [2004] 14 WRN. Ben Nwabueze and KC Wheare also made impressions on the concept of federalism but in divergent ways.

¹⁷ Amah Emmanuel Ibiam, ‘Federalism, Nigerian Federal Constitution and the Practice of Federalism: An Appraisal’ <http://www.scirp.org/journal/binaccessed> 8 August 2021

Nature of Constitution-Making: The United States as the father of federalism laid down the Universal precedent for Constitution-making wherein it emphasizes that they polity belongs to the people.¹⁸ In this vain Emmanuel Ibiam Ama quoting Thomas Paine states that a Constitution of the Federal is not the Act of government but the people constituting it.¹⁹ Edward Corwin traces the efficacy of the United States Constitution to the fact that people to be governed by it established it.²⁰ It took the United States of America about four years (1785-1789) to enact the Federal Constitution using new process of Constitution-making which is participatory when it became absolutely clear to them that the confederation Constitution practiced around (1785-1787) has outlived its substances and desired objectives. Also, the same similar processes applied to the French fourth and fifth Constitution of 1948 and 1958,²¹ and many others.

The nature of the making of the CFRN, 1999 was a disastrous one and quite opposite of the ideal constitution-making processes. The Constitution is not the making of the people as it is claimed in the preamble to the Constitution of the Federal Republic of Nigeria, 1999 (as amended). Rather, it is the act of the Federal Military Government under the interim leadership of Abdulsalam Abubakar and his cohorts and so lack the autochthony required of a valid Constitution. The Constitution was not adopted by the people in a referendum, nor was there any adequate constituent Assembly established by the people for enacting the Constitution.²² The participatory nature of the new process of constitution-making was rejected in preference to old process which is anti-participatory to achieve the government desired agenda...²³ There are no regional or state Constitutions that reflect the aspirations of the units, rather all the states of the federation depended on the central constitution dominated by the federal government to operate and this makes the current Constitution unitary than federal. It is therefore noteworthy to state herein that for the fact that the constitution-making is the fundamental right of the people, it provides validity and legitimacy to the functioning of the Constitution in a representative democracy like Nigeria and the integration that may be required as the end product. Anything short of these is an invitation to anarchy as we experience in the contemporary Nigeria.

Power-Sharing/devolution of Power: The theory of federalism as provided by the early constitutional writers like Wheare and modern writers like Ben Nwabueze provides for power sharing especially between the centre and the constituent units that make up the whole. The CFRN, 1999 (as amended) provides for power sharing mainly in the Exclusive and concurrent legislative Lists. There is also the Residual List to be managed by the State Assembly for those matters or items which are not included either in the Exclusive Legislative or Concurrent Legislative List. Items in the Exclusive Legislative List are the prerogative rights of the National Assembly to legislate on and with the removal of item No 55 on railways to the concurrent Legislative List, there are currently sixty-seven items for the National Assembly to legislate on out of a total of ninety-eight items set out to legislate on by the current Constitution after 2023 Constitution amendment,²⁴ The National Assembly and State Assembly shall legislate on the concurrent Legislative List²⁵ which currently contains only about 31 items. The same Constitution also provides that, where there is a conflict of interest between any law validly enacted law by the National Assembly and the state Assembly, the law enacted by the National Assembly will be sustained whereas the law enacted by the state Assembly will to the extent of its inconsistency become null and void.²⁶

¹⁸AC Akpunonu, 'Constitution of the Federal Republic of Nigeria 1999 (as amended): The Will of Nigerians?' *International Review of Law and Jurisprudence* [2019] 1(3)

¹⁹Emmanuel Ibiam Amah, 'Nigeria-The Search for Autochthonous Constitution <www-researchgate/publication>accessed 11th March 2019.

²⁰ Ibid

²¹ Ibid.

²² Dauda Abubaka, *Consociationalism and Democratic Stability in Nigeria* in Kunle Amuwo (eds.) (n4) 170

²³O Igbueze, 'strategy' Towards a Peoples Constitution' in Dare E Arowolo, 'Costitution-making Constitutionalism and Insurgencies in Nigeria', *Nigeria Journal of Applied Behavioural Science* [2014] accessed 6 June 2016

²⁴ See the Constitution of the Federal Republic of Nigeria, 1999 (as mended), Second Schedule, s.4

²⁵ See the CFRN, 1999 (as amended), second schedule, Part 11, s.4

²⁶ The CFRN, 1999 (as amended), s. 4 (5).

From the provisions of the CFRN, 1999 (as amended) as provided above, the devolution of power between the National and State Assembly is lopsided, there is concentration of power at the centre, tilting more in favour of the National Assembly. It follows therefore that the state in practical terms is just a rubber stamp needed to fulfill federal structure in Nigerian context. Items such as universal registration of birth and death throughout Nigeria, labour matters, establishment of state police and other minor issues banished in the Exclusive Legislative List ought to be in the concurrent Legislative List as applied in Constitution of the federal state like the US and Canada.

Power sharing in the Judiciary and others: The centralized nature of power-sharing in the federal state is also found in the management of the judiciary, internal security, resource control, and fiscal federalism. The Judiciary for example is one of the organs of government designated to dispense justice in a federal state.²⁷ However the issue which poses a challenge to Nigeria federalism is the monolithic structure and irrevocable provision of the appointment of the judicial officers in Nigeria. The Constitution establishes the superior courts of records such as the Supreme Court, Court of Appeal, Industrial Court, High Court of Federal Capital Territory, Abuja, High Court of a state and others of these kinds.²⁸ To oversee the activities of the superior courts, the Constitution establishes the National Judicial Service Commission, headed by the Chief Justice of the Federation appointed by the Head of the state as Chairman.²⁹ As regards the state judiciary appointment to the office of Chief Judge of a state, the appointment shall be made by the Governor of the state on the recommendation of the NJC from among the list of persons submitted to it by the State Judicial Service Commission.³⁰ Interestingly, there are many observations that flow from these provisions. The NJC controls the superior courts of records headed by the Chief Justice as the Chairman, appointed also by the President of Nigeria as the Constitution provides. It is observed that the president of Nigeria who appoints the chairman is from the centre, just like a NJC which is a national body. This points to the unitary nature of the Nigerian Constitution. Again, assuming that those recommended by the NJC to be made judicial officers of the state are not among the choice of the state Governor, there will be a clash of interest and a halt in the flow of activities of such a state as we often see in such appointment. The appointment of judicial officers in Imo State in 2024 speaks volumes of such clash of interest and monolithic nature of the Nigerian judiciary.

Centralized Nature of Internal Security: Centralization of the internal security like the police force existed since the Independent and Republican Constitutions of 1960/63. But certain provisions of these constitutions were supplemented and so allowed to some extent the decentralization of Police Force.³¹ The above provision made it possible for the Northern and Western regional government to retain and expand their local police force but the Eastern region did not explore this option. Regrettably, the decentralization of the police force at this period was turned into local arm of the parties in power in these two regions and so became ready tools for the oppression, suppression, intimidation and harassment of political opponents in the country and was hardly separated from political parties' tugs in the North,³² and was therefore abolished till date. The antagonists to the state police argued that if the institution is restructured or amended to accommodate state police, some power drunken politicians and the over ambitious governors may revert to the abuse especially against the perceived and unknown political opponents and forces. But we argued here that in the contemporary Nigeria under single police force, the police force is still being used to achieve mischiefs especially from the political opponents. Illustrative were the abuse of the federal police force in 2003 by the former governor of Ogun state, Gbenga Daniel who ordered that the House of Assembly be shut down,³³ as a result of conflict between him and some members of the legislators.

²⁷ See the CFRN, 1999 (as amended) s.6

²⁸ See the current Constitution ss. 230-280

²⁹ See the Third Schedule of the Constitution, Part 1, s.20 (a)

³⁰ CFRN, 1999 (as amended) Third Schedule, Part 1, s.21 (c)

³¹ See the CFRN, 1960 and 1963, ss. 105 (1) and (4) and 105 (1) and (7) respectively

³² B. O. Nwabueze, *Constitutional Democracy in Africa*, Vol. iv (Owerri: Spectrum Books Ltd 2004) 207

³³ L.O. Taiwo and O.A Orifowomo, *Federalism and United Police System: A Product of Political Exigency in Nigeria* < www.journal.ezewjabacter.org/pdf>accessed 15th July 2021.

Dr Chris Ngige was also abducted during his short tenure as Governor of Anambra State through the assistance and convenience of the Nigerian Police under Obasanjo civilian administration in 2003. In 2025 Governor Fubara of Rivers State demolished the entire River State House of Assembly over conflict between him and Rivers State House of Assembly with the assistance of Nigeria Police. The last but not the least is the recent closure of Onitsha Main Market in February 2026 by Governor Charles Soludo of Anambra state over 'Monday Seat at Home' by the traders for the fear of Indigenous People of Biafra (IPOB) of over the freedom fighter Mazi Nnamdi Kalu was procured with the assistance of Nigeria Police Force. These instances watered down the argument of the antagonists over the failure to decentralize the Nigeria Police Force.

The evidences above showed that the police force could readily be abused whether it is centralized or not if not adequately controlled. Most of the advanced federal states such as Australia, Germany and the US, all have decentralized police force. In New York, there is Los Angeles Police Department and there is also County Sheriff Division which is equivalent to local government police. Each of these individual police forces enforce law and order without interference from the Federal law enforcement except in a special circumstance or when a team work is needed like the September 11, 2003 attack on Pentagon House World Trade Center where the Federal Bureau of Investigation (FBI) teamed up with the County Sheriff Division to unravel the cause of the bombing.

Inadequate provision for the Rule of Law: The CFRN, 1999 lacks proper enforcement of rule of law due to some contradictions it is infested with. That is why the full development of the local governments in Nigeria are still mirage. The local government is guaranteed under the s.7(1) of the Constitution but the loopholes created by the Constitution in the same section that guaranteed it and section s.8(5) make it possible for the state Assembly and State government to manipulate the local government.³⁴ The autonomy of the local governments in Nigeria are yet to be realized, despite the supreme court pronouncement of the local government autonomy in 2024 because of the conspiracy, manipulation and disobedience to the rule of law and fundamental rights by most State Chief Executive. The Chief Executive of the state is being dragged to the court very often by the Chairman of the Local Government Area over the conversion of the local government statutory allocation and usurping the powers of the latter as in the case of *Knight Frank and Ruttery Nig v A G Kano State*.³⁵ Some of the state Chief Executive prefer the appointment of care taker whom they hire and fire to statutory elected chairman, these anomalies here and there made some writers refer to Nigerian Federalism as pseudo federalism.³⁶

Resource Control and Fiscal Federalism: Resource Control is one of the characteristics of a true federalism. It is the right of the federating units to control the natural resource within their borders and the revenue accruing from it in which they are mandated or required by the constitution or law to pay a certain percentage from this revenue to the central government in the discharge of their constitutional functions.³⁷ It may not be an over statement to adduce that the tremendous success recorded in development between 1954-1966 in Nigeria, especially in agriculture may not be unconnected with a fair federalism practiced around this period, wherein every region was allowed to hance her resources to improve her region. Unfortunately, due to series of coup d'etat, long military leadership, and lack of clear-cut provisions in the Constitution as obtains in a Federal State, resource control in Nigeria always faces challenges. No wonder the Niger Deltans are often either fighting the central government for converting their crude oil or are engaged in self-help through oil bunkering for forcefully converting their resources. The antagonists of resource control argue that if the rational is that resource control means absolute and exclusive powers of the state to control resources of revenue situated within it then

³⁴ Ss. 7(1) and 8 (5) of the constitution

³⁵ [1999] 156 at 172 D-E

³⁶ See Ideobodo Nwafor-Orizu, Okolo Modesta Chinyere and Kierian Tochukwu Eze, 'Political Restructuring in Nigeria: The Need, Challenges and Prospects' *Global Journal of Human-Social Science* [2018] 18 (5) <globd.org>accessed 30 December 2025.

³⁷ Et Aniche, *A Modern Introduction in Political Science* (Onitsha: Desvic Publishers 2009) 152-163.

it is offensive to federalism since it will leave the federal government without any resources to prosecute its vital functions of external defence and other activities exclusive to her ...³⁸

The above argument can only arise in a country like Nigeria where federalism is practiced unitarily than federal. Otherwise, why should the federal Government and National Assembly continue to operate with a defective Constitution that allows for enormous powers to the centre if they do not have ulterior motive, which is to make the states subordinate than coordinate units as the progressively existed in 1963 Republican Constitution under regionalism. Again, some people argue that absolute resource control among states will disadvantage states that are not endowed with any natural resources in carrying out their financial obligations. But we do not key to this argument; more so, if we remember that between 1954 and 1966 Nigeria strived excellently well under regionalism without oil but agriculture. The Eastern region was known for palm production, the Northern region was famous in groundnut production, hence the famous groundnut pyramid, and Western region was known for Cocoa production. The famous palm production in Malaysia today was borrowed from Nigeria. In our view the bane of Nigerian economic challenge was the abandonment of our famous agricultural productions in pursuit of oil which resulted in mono-economy in the midst of world economic competition.

Fiscal Federalism: Another basic ingredient in a federal state is fiscal federalism. The concept lacks universally accepted definition hence they are diversities in its definition. To this effect, Okolo and Akpokighe see fiscal federalism as the relationship among the various levels of government with respect to the allocation of national revenue and the assignment of functions and tax powers to the constituent units in a federation.³⁹ In reference to USA experience, Hyman defines fiscal federalism as the division of the taxing and expenditure, functions among levels of government in a federal system.⁴⁰ The most important issue in fiscal federalism is revenue allocation formula. That is sharing of national revenue among various tiers or units of government, (vertical revenue sharing) as well as distribution of revenue among states (horizontal revenue allocation). In Nigeria experience, there is always contention in the fiscal architecture of the federation over how to share the revenue and who takes what. To this event, there is always conflict or other back and forth in revenue allocation formula even with the derivative formula. In the vertical allocation formula, the Federal Government is found allotting lion shares to herself in both military and civilian regimes in the several commissions set up to find a lasting solution to the agitation back before 1960 independence and subsequent Commissions. Such examples include the 1946 Philipson Commission, the 1951 Hick-Philipson Commission, the 1968 Chicks Commission, the 1977 Aboyade Committee⁴¹ and others. The most recent revenue formula (1992) also toed the pattern of the former which is spread thus: Federal Government – 52.68%; State Government – 26.72%; Local Government – 20.60%; Derivative for oil producing states – 13%.⁴²

The above spread of revenue formula is what is likened to financial insubordination which in effect makes mockery of federalism. It is also on this premise that Ike Ekweremadu characterized Nigeria's current intergovernmental fiscal relation as feeding bottle federalism.⁴³

where the constituent states and localities of the federation are funded almost entirely by centrally collected and redistributed oil revenue and have very little incentive to generate their own fiscal resources. This has produced many perverse consequences, including

³⁸ Okafor And Amucheazi 'The Concept of True Federalism in Nigeria' in Chinwuba Chukwura, 'Resolution of Issue in Revenue Allocation and Resource Control in Nigeria Fiscal Federalism through the Rubrics of Judicial Decisions' *de Juriscope Law Journal* of Chukwuemeka Odumegwu Ojukwu University Igbariam Campus, [2017] 1, 101

³⁹ Azaïke in Philip O Okolo Akpoki Okiemute Ramond, 'Federalism and Resource Control: The Nigerian Experience' www.iistc.org accessed 17 February 2005.

⁴⁰ S Aigbepue, Augustine E Amabor, 'Issues and Challenges of Nigeria Fiscal Federalism' www.semanticscholar.org/paper accessed 17th February 2025.

⁴¹ Vincent Esegheh Efeheh, 'the Nigerian State and the Political Economy of Restructuring' www.researchgate.net accessed 30th December 2025.

⁴² Nigerian Statics <Nigerian.sta.gov.ng> accessed 20th March, 2026.

⁴³ Ike Ekweremadu and Offornze D Amucheazi, *Constitutional Review in Emerging Democracy, the Nigerian Experience* (New Jersey: Goldline and Jacobs Publishing 2015) 122

fiscal hyper-centralization and paternalism, a weak sense of financial responsibility and transparency at the subnational level and feeling of economic dispossession in the oil-bearing Niger-Delta ... has morphed into militant insurgency ...

As aptly captured by Suberu and Agbaje:

The country's federalism is plagued by paradoxes, pathologies and irregularities. This made Nigeria a theatre of recurring ethno-regional tensions, inter-governmental conflicts and ceaseless agitations for a configuration of the federal structure in order to allow for a more equitable distribution of power and material opportunities.⁴⁴

4. Nature of Restructuring

As Hornby sees restructuring to mean to organize something such as system or a company in a new and different ways.⁴⁵ The term restructuring in Nigerian context means different things to different people according to their backgrounds and perceptions. For some restructuring may mean changes such as political changes or merging states or local government areas, resource control. Yet to another it may mean regional autonomy and power devolution, with resource control, particularly regarding oil wealth and others.⁴⁶ ABC Nwosu defines restructuring as 'changing the structure' and after criticizing the federal government of having too much power, too much responsibility, too much money, too much money to waste ...' ended by saying I belong to the school of thought that regard restructuring as more of devolution of powers than regionalization of Nigeria.⁴⁷

Restructuring involves various dimensions such as political, economic, educational, social, accounting, administrative and security related restructuring. However, in reference to this study, we are interested in political restructuring. The idea of political restructuring represents a valuable attempt for addressing structural imbalance in a country such as Nigeria.⁴⁸ Therefore the idea of political restructuring in the Nigerian context is arguably a euphemism for redistribution, especially the reallocation of power and economic opportunities among the elites.⁴⁹ Political restructuring may be summarized as a change for better. Specifically, to the different zones in Nigeria, restructuring may mean different things. For instance, for the South-South, it may mean a control of their crude oil, for the South-East it may mean given opportunity to become the president of Nigeria to allow for fairness and also stepping up the South-Eastern states at least to six states to be at par with other zones. To the Northerners, it may mean, the imposition of sharia for the Northerners or the whole nation. Then to the South-West a return of the position of the regions under 1963 constitution, that is Regional Autonomy. Whereas to the Middle-Belt, it the empowerment of the natives over settlers.

Be that as it may, a critical observation and perusal to historical development of Nigeria as summarized in the introduction of this work will seemingly perceive an imposed union,⁵⁰ otherwise called amalgamation of Northern and Southern Nigeria protectorates in 1914. So, at one time or the other we experience centrifugal and centripetal forces at play, each trying to dominate the other, coupled with long time military rule which has so much affected Nigeria federalism and made worse by the ill

⁴⁴ Suberu and Agbaje in Dele Babalola and Hakeem Onapajo <http://www.Africa.ufl.edu/asq/v18/v1814a3.pdf> accessed December 28 2025

⁴⁵ A S Hornby (eds.) *Oxford Advanced Learners Dictionary* (9th edn. Oxford: Oxford University Press) 1322.

⁴⁶ Bellow in Vitalis Emeka Onah, 'The Challenges and Prospect of Restructuring in Nigeria' *Nigerian Journal of Social Development* [2013] <NGJSDiiarabianjbrur.com> accessed 27th December, 2025.

⁴⁷ ABC Nwosu in Vitalis Emeka Onah, 146

⁴⁸ Dele Babalola and Hakeem Onapajo, 42.

⁴⁹ Ibid.

⁵⁰ The amalgamation is sometimes perceived in falsehood. That is there is doubt as to existence, because according to Obiora Okonkwo in Ideobodo Nwafor-Orizu, Okolo Modesta Chinyere and Eze Kierian Tochukwu, as at the time of the merger most of the Nigerian nationalists were still tender and little children. For instance, Nnamdi Azikiwe was 10 years old as at then, Obafemi Awolowo 5 years old, Ahmadu Bello 4 years old, Tafawa Balewa 2 years old, and Anthony Enahoro has not yet been conceived since he was born in 1923. The big question here is who among the members from the diverse ethnic group that make up the protectorates was brought to a negotiation table to agree on the merger.

invested CFRN, 1999, handed down to the polity under the interim leadership of a retired military General in the person of Abdulsalam Abubakar in 1999.

In any case, the summary of the structure of Nigeria federalism as exposed through the provisions of the Constitution puts no one in doubt as to why the clamour for restructuring or dissolution. The foundation is faulty, couple with long military rule, made worse by virtually bad leadership who are in most cases corrupt. In fact, studies show that restructuring predates Nigeria, as federalism is the brain child of restructuring. In the contemporary Nigeria, almost all the Heads of states at one period or another engaged in restructuring. For example, General Olusegun Obasanjos civilian administration (2nd coming) May 1999 – May 2007) restructured Nigeria in the following ways:

1. Restored 13% derivation to oil producing areas by sponsoring an executive bill in the National Assembly (geo-fiscal restoring) the same bill also extended in non-oil producing areas.
2. Created Ministry of Nigeria Delta (administrative restructuring).
3. Started full and all-out privatization of Government parastatals (economic restructuring).
4. Implemented full monetization of federal Civil servants' fringe benefits (economic restructuring)
5. Started the contributory pension scheme for civil servants (administrative restructuring).
6. Established the EFCC (restructuring of security apparatus).
7. Introduced 8 years tenure for Federal Civil Servants (Directors and above)
8. Created Excess crude oil account (fiscal restructuring).⁵¹

Goodluck Ebele Jonathan (May 2010 – May 2015) no major restructuring took place, but the administration convened a National Conference 2014, which was also kind of restructuring. Yet there are still more to be desired and so we join Nwafor-Orizu, Okolo and Eze to pose the following question:

1. Why is it that the states of the Nigeria federation cannot develop at their own pace using their nature given resources?
2. Why are certain necessary important realities like police force, issuing of drivers license, birth registration and others dependent on federal government?
3. Why does the current Constitution of Nigeria bear 'we the people of Nigeria do solemnly swear and agree...' even when it is obvious that it was imposed on Nigeria?
4. Why are there discriminatory unity schools and tertiary institution admission policies in the name of ELDS quota system...
5. Why is it that politicians in Nigeria earn much more than thrice of what the civil servant who are the administrative engine of the political structure earn?
6. Why is it that regions in the geo political zones of Nigeria have unequal states and local governances and yet number of states and local governments is a criterion for sharing national cake?
7. Why is it that the current operational Constitution does not reflect a democratic Constitution, rather a military imposed Constitution with little or no appropriately laid down principle of federalism, rather unitarianism?
8. Why is it that the local government receive their statutory allocation from the federal government in a joint account that is controlled by the state government?
9. Why does the federal government have to decide the amount that the state government should pay their workers as minimum wage even when the state government lack the resources to do so?
10. Why is the federal government involved in the creation of local government...⁵²

Furthermore:

- Why is a particular section of zone being frustrated from being president of Nigeria whereas some favoured sections have been in the position for about 2 or 3 times?
- Why does a proportion of one section of the federation larger than the two parts of the sections put together?

⁵¹ Vitalis Emeka Onah, 147 - 148

⁵² Ideobodo Nwafor-Orizu, Okolo Modesta Chinyere and Eze Kierian Tochukwu.

- Why is a land mass used in allocation of revenue than human beings?
- Why does the federal character that provides opportunity for citizen for job spread both in the national and state levels in recent time almost thrown overboard?
- Why would the federal government embark on building roads and there after abandon the maintenance when the same road could be built and take care of by the state government.
- Why is there no state Constitution as applied in advanced federal state.
- Why is the land use Act still operative in Nigeria despite the conflicts and the difficulty it creates?

The above illustrations and more starting from the union of Nigeria, structure of Federalism in Nigeria, and other variables as exemplified in this work informs the reasons for the awaken and agitation for restructuring especially from the marginalized Eastern part of Nigeria and the Niger Deltans. However, restructuring without good governance may be a wild goose chase.

5. Good Governance

The term good governance can apply to corporate, international, national or even local government. A more working definition is provided by Msiba Mbi, Prime Minister of Uganda as: ‘the exercise of political administration and managerial authority and order which is legitimate, accountable, transparent, democratic, efficient and equitable in resources allocation, utilization, positive transformation of society...’⁵³ Nwabueze opines that good governance involves:

- i. Account of power based on the fundamental belief that power should be exercised to promote human well being.
- ii. Democratic value in respect of the sharing of power, representation and participation.
- iii. The sense of right and wrong, what is fair and just, work ethics and corporate social responsibility.
- iv. Efficient and effective use of resources for the production of good services.
- v. Protection of human rights and freedom and security for the person and his property.⁵⁴

According to the United Nations good governance is:

- i. Consensus oriented
 - ii. Participatory
 - iii. Following rule of law
- Effective and efficient
Accord
Transparent
Responsive and
Equitable and inclusive.⁵⁵

6. Rule of law and Good Governance

Rule of Law connotes a regime of supremacy of law⁵⁶ that the law in a given society holds sway over and above every person or authority therein.⁵⁷ It is undoubtable that there is co-relation or rather link between rule of law and good governance. The unimpeachable pillars of rule of law, supremacy of the law and equality and subjection of all to the law of the land have – suffered great assaults from the successive regimes whether military or democratic from independence till date.⁵⁸ Most of the Nigerian

⁵³ Oji et al, ‘Globalization and New Perspective in corporate governance in Globalization, National Development and the Law’ D.A. Guobadia (eds.) (Lagos Nigeria Institute of Advanced Legal studies 2005) 145.

⁵⁴ Ben Nwabueze, ‘constitutional Democracy in Africa’ vol. 3.

⁵⁵ United Nations Economic and social commission for Asia and the Pacific (UNESCAP) 2009 ‘What is Good Governance?’ <http://www.unescap.org/resources/what-good-governance> access 28 January, 2018.

⁵⁶ J. Benomar, in Ike, Ekweremadu and Offornde D. Amucheazi, Constitutional Review in an Emergency Democracy, the Nigerian Experience.

⁵⁷ Ibid

⁵⁸ A. C. Akpunonu, Rebranding the Nigeria Polity through Rule of Law and Good Governance *Madonna University Law Journal* [2020 – 2011]

leaders are very disobedient to rule of law and court order as witnessed in the president Obasanjo's recalcitrant stance on the withheld funds of Lagos Local Government allocation even after the supreme court's decision deprecating the seizure.⁵⁹ Suffice it say that federalism and democracy in Nigeria are facing a bad day. Therefore, no matter how enhanced future restructuring might be, it must be supported by good governance which emphasizes equal participation, rule of law, accountability, effectiveness and respect for human rights ...⁶⁰ Successive Nigeria leadership lack the above qualities rather they trade more on corruption and this has resulted in wide gap between the leaders and the led, insecurity, abandonment of the citizens in the face of insecurity, social vices, economic decay and unnecessary agitations in the contemporary Nigeria.

7. Conclusion and Recommendations

Perhaps, if the leadership of Nigeria has embraced rule of and shun corruption and if the National Assembly had done the needful either by amending the constitution effectively or rather jettisoned the current CFRN, 1999 and enacted an inclusive new constitution and devolved more powers to the states to meet the yearning and aspiration of the citizens, if the National Assembly had allowed the autonomy of the states and state Constitutions as practiced under regionalism between 1954 and 1966, then face issues like defence, currency, international relations and oversight functions and other related matters thereto as obtained in other federal climes like the US, and others, the huge responsibilities, they claim to have could not have arisen in the first. Rather, the devolution of powers could have among other things attracted positive competition among states, higher integration and coordination as well as other benefits and the eventual development as obtained in other federal climes like the US, Germany, Australia and also Nigeria as exemplified under regionalism between 1954 and 1966. The time to act is now, but doing otherwise may end in exercise in futility which may result disintegration because Nigeria as country is seating on a keg of gun powder waiting to explode at any lightest mistake due to the lapsed enumerated above. The following measures are necessary:

- i. A participatory new Constitution should be enacted to bear the aspirations of the people and to reflect the preamble; WE THE PEOPL of the federal Republic of Nigeria ...⁶¹
- ii. State Constitutions should be allowed to enable the respective states enact Constitutions that meet the individual state desires and aspirations as obtain in other federal states, such as the US, Australia and Germany.
- iii. New state creation should be allowed specifically for the South East to bring the South Eastern states at per with the South West and the North. Whereas a general new states creation will be suspended until after restructuring and good governance are implemented.
- iv. State police force is long overdue and so should be provided in the Constitution, especially in the face of incessant insecurity in Nigeria. The antagonists to this dream should shield their sword since their fears are still perpetuated in Nigeria even in the face of centralized police force.
- v. Autonomy and development of the local governments in Nigeria should be enforced with severe sanctions to encourage youth's development in the rural areas, food abundance and reduction of insecurity because an idle man, they say is the devil workshop.

⁵⁹ Per Uwaifo JSC in *AG Lagos State v. AG Federal* [2005] 2 WRN, P. 89 – 90. Para 35 – 20.

⁶⁰See the World Bank and the United Nations definitions in Dele Babalola and Hakeem Onapajo

⁶¹See the Preamble to the CFRN, 1999 (as amended) 23.