

Federal Character Principles in Nigerian Constitution and Its Applicability: Issues and Challenges

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Abstract : Nigeria adopted the federal character principle to counteract the nationality question that has been bedeviling the polity. The principle after several years of introduction, it was assumed to have yielded positive result thus made a constitutional matter. In a bid to ensure equity in the allocation of values in the nation that regards herself as the Giant of Africa, a provision was made in the part 1 of the third schedule of the 1999 constitution of the Federal Republic of Nigeria as amended for the establishment of the federal character commission. As enshrined in the constitution, the functions of the commission includes to promote, monitor and enforce compliance with the principles of proportional sharing of all bureaucratic, economic, media and political posts at all levels of government. After several years of making it a constitutional matter and decades of the introduction of federal character principle, this paper seeks to determine whether application of the federal character principle, most especially as enshrined in the constitution have or will achieve the set objectives as to do with national integration which is a pre-requisite for economic development. The system theory is adopted in this work as the framework of analysis to ascertain the issues and challenges inherent in the applicability of federal character principles in achieving the set objectives, most especially as it has affected the system and vice versa. The paper views federal character principle as to have had its issues and challenges even as it is a constitutional matter. The paper recommends a critical adherence to the federal character principle but restructure the provision of the constitution that housed the principle so as to allow for credible representation.

Keywords: development, nationality, federal character, democracy, constitution and Constitutionality

I. Introduction

In the so called era of globalization and global village, it is anachronistic to talk about nationalism, autonomy, and development. Punditries have declared the end of history. Development is passé and autonomy is out-dated... Politicians talk about win and win situations, not winners and looser.... Nationalism becomes cultural relativism at best, or fundamentalism at worst. While autonomy is a pipe dream, all fads have their days (Shivji, 2009:117).

The principles of democracy are generally known and universally acceptable. Yet their precise application very much depends on the historical context of the country and the people concerned. A set of principles is one thing and its application is another. There is no universally acceptable model of democracy though there are universally recognized principles of democracy... there are certain unavoidable implications in working democracies. They produce winners and losers. And each one of these has obligation to make the system work (Mohiddin, 2009:171).

The above two quotations suggests that globalization, democracy and development form a vicious circle. These suggestions imply that in application, democracy is driven in the globalized world with capitalism at its fulcrum. Largely, this interaction depends on the history of a specific country and people. Thus different nations resort to varying methods to nurture their democracy. Most countries in the third world including Nigeria sought to be seen as democratic. The reason for this is in two folds. On the one hand, democracy has attained such a height that to be democratic is a condition for membership to international organization like IMF, world Bank, UN and WTO while on the other hand, financial assistance from the global North to South like borrowing, foreign aid, grants and Foreign Direct Investment (FDI) insists that receiving countries must be democratic..

Remarkably, ethnic differences are often exploited in Africa for various purposes ranging from political power to wealth. Igwe (2003:143) rightly noted that:

Worldwide, the most acute problems of ethnicity are still in Africa where poverty, corrupt and incompetent leadership, the colonial heritage and possibly religion had created terrible civil wars in Nigeria, Sudan, Ethiopia, Burundi, Rwanda, and many other states including even pogroms, genocide, ethnic cleansing and on almost

endless bitterness sometimes leading to succession calls for ethnic self-determination sovereign National conference political restructuring and a like.

Again, Section 14, subsection 3 of the 1999 Constitution of Federal Republic of Nigeria States that:

The composition of the Government of the Federation or any of its agencies and the conduct of its affairs shall be carried out in such a manner to reflect the federal character of Nigeria and the need to promote national unity, and also to command national loyalty thereby ensuring that there shall be no predominance of persons from a few states or from a few ethnic of other sectional groups in that government or in any of its agencies.

Following the 1967/70 civil war in Nigeria, successive governments in Nigeria have continued to search for peaceful coexistence of the various ethnic groups in Nigeria and achieve integrated national development. In this search, the 1979 Constitution Drafting Committee (CDC) reported that inter-ethnic rivalries in Nigeria between one ethnic group or combination of ethnic groups and others are struggles to secure the domination of government at the exclusion of others. The committee submitted that it is essential to have some provision to ensure that the predominance of persons from a few states or from few ethnic groups is avoided in the composition of government or the appointment or election of persons to high offices in the Nigerian state (CDC, 1979: viii). Nigeria adopted the federal character principle to counteract the national question issue. This paper therefore, explores the extent of the applicability of the federal character principle to solving national question in Nigeria and the possible issues and challenges emerging from its application.

Conceptual Clarification

Interestingly, federal character and national integration are related. The former is applied to achieve the latter. The application of federal character in revenue sharing, education, employment and location of industries and other development programmes will guarantee national integration, stability and development. Then what is federal character?

Federal Character

Federalism emerge either through coerced authority of a foreign power hence institutive federalism or through voluntary agreement of the constituent units hence constitutive federalism. Nigeria federalism conforms to the former type as the Nigerian federal constitution was imposed by the British colonial power. Meanwhile, the US federalism was an example of the latter type of federalism as constituting states wilfully joined the confederation and subsequently federation. Federal character suggest an attempt to build a nation where equal opportunities abound and where every individual must feel that he has equal chance to participate without bias of ethnic affiliations (Talih, 1987:2-3). Federal character is both a reaction as well as a system. It is a positive reaction to correct those practices of the past, especially in the conduct of public management which tended to exploit the diversities of the nation and by so doing cause ill will. Also it is a reaction to those practices which tended to reflect selfish and parochial consideration, especially those negative forces which placed the self interests above national interest. The federal character principles involve a deliberate plan to construct means of ensuring the proper distribution of amenities and government projects in the country.

Afigbo (1987:21) identified some stages of evolution of federal character which is originally a colonial heritage. The stages include: The period of informal Federation 1900-1946; The period of formal federation, first phase, 1946-1966, and The period of formal Federation second phase: 1967- present. Afigbo noted that the principle arose out of a compromise among the protagonists of the 1976 CDC. It was seen as an oily formula to silence the troubled waters in Nigeria and the panacea to the issue of political economic instability which obstructs the balancing of the North and South on the one hand and the various ethnic groups mainly the three dominant ethnic groups (Igbo, Yoruba and the Hausa/Fulani) and also other minority ethnic groups on the other hand.

Olagunju (1987:33) also defined Federal Character as a deliberate design to accommodate less dominant but often forcibly expressed interest... Essentially, it is a design which is aimed at depoliticizing new demand through an institutional arrangement hence this principle should be modified and gradually applied even to the private sector. Similarly, Ezenwa (1987:87) noted that federal character arose out of the need to correct the anomalies that emanated from the random and uneven distribution of natural and economic resources and thus doubtful of whether such principle could correct such anomalies that have already been inculcated and imbibed by the various ethnic groupings in Nigeria. He however, pointed out that this inequality which found succour in areas of revenue allocation and educational advancement worsened after independence. Laudably, Ikejiani and Ikejiani (1986:7-8) noted that multi-ethnic and multi-racial affiliations in the country is the root cause of constant crises and blamed governments for not trying to arrest the ugly situation. They believed that the panacea to this problem lay in the adoption of federal character concept as it relates to the location, staffing and admission of students into tertiary institutions in the country, employment and appointments or elections.

Many scholars have equally called for the creation of more new states along ethnic lines such that no ethnic group shall be dominated by another. At this instance, one might begin to wonder whether Nigeria is the only multi ethnic country in the world. Notably, Canada and USA are also multi-ethnic countries, yet they have not faced the kind of ethnic problems Nigeria faces. Thus the federal character principle is adopted in Nigeria to hold the federating units firm as an entity.

National Integration

Nation building and national integration have common expressions. Nation building is the process of surrendering ethnic loyalty, cultural and linguistic loyalties to a powerful coercive authority (nation) (Deutch and Foltiz, 1963). Thus, national integration implies the evading of all ethnic biases, ties and affiliation and the trapping of these variables by a higher and central authority for the purpose of national unity, stability and development.

According to Durverger (1980:220) national integration is the process of unifying a society, which tends to make it a harmonious city based upon an order, its members regarded as equitably harmonious. This implies that national integration, requires harmony, but the fact is that not all harmonious cities are integrated. Again, integration is a process which permits interaction, which could not be attained by staying apart.

Willard (1970:8) also argued that mere interaction of these structures would bring about political or national integration in a plural polity in contradistinction to the opinion of Nnoli (1978) that mere interdependence of political structures in a polity cannot command the loyalty of its citizenry towards national building. Nnoli (1986) defined National Integration as the process of bridging the social distances in a society such that harmony and corporation rather than conflict and disagreement that characterize the interaction between members of the society. Nnoli attributed conditions of extreme socio-economic scarcity, hostility, prejudice, antagonism and conflict among individuals, groups and collectivities as hindrances to national integration. Similarly, Olupona and Turaki (1988:7) identified the clashes of the various religions in Nigeria like Islam, Christianity and the African Traditional Religion as posing obstacles to the full take off of national integration in Nigeria and argued that the issue of religion is something that cannot be taken lightly in the country.

Theoretical framework

Our theoretical framework of analysis is the Marxist theory of the post-colonial state. The theory is important because of its relative proficiency in analysis of post colonial political economy. The major proponent of this theory is Karl Marx, though, he never called it Marxist theory of neo-colonial states but he advanced the following attributes of the neo-colonial state:

- The post-colonial state, is purely an instrument of class domination.
- The primitive accumulation with state power is done by domestic dominant power and certain external forces.
- Post-colonial states are renter states parcelled out to prevent the use of the state power for selfish ends.

Marxist epigenists like Lenin, Ake, Ekekwe and Miliband have in their separate studies contributed to the development of the post-colonial theory of the state. Lenin (1984:10-11) noted that the state is a product of class struggle in society. The state emerged so that antagonistic groups will not consume themselves in fruitless struggle over the ownership of means of production. Hence the state emerged to moderate class struggle in advanced bourgeoisie states unlike in neo-colonial states where state are parts and parcels of the class war it was supposed to moderate. Thus post colonial states rather than maintain or moderate economic relations, became an instrument of domination, exploitation and intimidation of the subjects (Ekekwe, 1986:12). Similarly, Miliband (1977:109) insist that post colonial states are dependent on the alien forces that colonized them and thus the state is both the source of economic power and an instrument of accumulation of economic power as the state is the major means of production. This however, was a colonial heritage as colonial character has matured when independence was achieved in most post colonial states who inherited these colonial traits with no or little modification. After independence in the periphery, we saw a mere change of leadership position from foreigners to natives while the policies remained the same (Ake 1981:88).

The Nigerian State as a post colonial state or a periphery nation is characterized by these factors discussed above. Like other colonial states, Nigeria lacks the capacity to moderate the struggles which is pronounced between or among the various ethnic groups and states that make up Nigeria. Hence political and economic imbalances exist among and between the various states or ethnic groups that make up Nigeria. These imbalances exist in almost every sector of the economy hence most people feel marginalized. The emergence of

various militia groups in the Niger Delta is an indication of the existence of rivalries between groups over share of national cake. States of the majority ethnic groups seem to be so strong that they can hold the minorities to a stand still. This therefore denies the minority groups of their constitutional right of self development and actualization. It is in view of correcting this abnormality that the Federal Character Commission was established to uphold federal character principles.

In Nigeria, today there is a tendency to over-emphasize, the federal character and deemphasizing merit and hard work and defend mediocrity and parochialism in running of the various sectors of the economy. This explains why the Nigerian state continue to depend on the West for economic and political guidance and the tendency for the political leadership to neglect the respect for human dignity, rule of law and due process in states creation exercise and other policy processes in virtually every sector of the economy. This character of the Nigerian state is informed by the liberal or neo-liberal ideology. Nigeria had to toll the line for fear of sanction or in expectation for favour. Since Nigeria lacks the technology and capital to sustain her economy, Nigerian leadership continues to seek economic and political advice and directives from their former colonial masters. Though most of the Western policies initiatives and directives to Nigeria are anti-people and have the tendency of introducing confusion among the various ethnic groups in Nigeria, these policies are religiously implemented in Nigeria even when a commensurate assistance from the West is guaranteed.

Application of Federal Character Principle in State Creation

In Nigeria, federal character principle is not sidelined in State creation because the Federal Character Commission recognizes the division of Nigeria into North and South (East and West). In state creation, Nigeria has 18 States each between North and South. Since the origin of federalism and regionalism in Nigeria in 1946, the major regions have been the North and South. The further division of the South into East and West was for British administrative convenience and political consideration (weaken the South by further dividing them without doing same to the North). These three administrative units, Northern Province houses the Hausa-Fulani ethnic nationality, the Western province houses the Yoruba ethnic group while the Eastern province houses predominantly people of Igbo. Though these three groups were not the only existing ethnic groups in these regions, the dominance of these three overwhelmed the minority. No wonder only these three groups were considered when the 1946 constitution was imposed on Nigeria (Ugwu 1998:16).

The emergence of this unholy trinity from the old duality of 1914, subsequently bursted into 36 states and the minority groups continue to mount pressure for more states. The conflicts origination from request for creation of more state is so horrific that one might begin to question the rationale for Nigeria. No wonder Awolowo in (1947) noted that:

It is only the accident of British suzerainty which had made Nigeria one country or one nation socially or even economically.... Socially and politically there are deep differences between the major tribal groups. They do not speak the same language and they have highly divergent customs and ways of life and they represent different stages of culture.

Notably, colonial constitutions were concerned with only the major ethnic nationalities. It was not until July 1966 when Lt. Col. Yakubu Gowon and team struck and took over government of Federal Republic of Nigeria in a counter military coup that the emphasis on this unholy trinity began to dwindle and the minority voice was heard. Gowon's regime reversed some of the unjust decisions against the minorities in Nigerian. He gave people from minority ethnic groups political appointments and subsequently broke up the unholy trinity which gave the three major ethnic groups controls over the minorities in Nigeria. In May 1967, Gowon carved out 12 states in Nigeria, 6 for the South and 6 for the North from the unholy trinity plus the mid-West that was created in 1963. After the General Murtala Mohammed blood free coup of 1976, he further carved out more 7 states to total 19 states in Nigeria favouring the North with 10 states and South with 9 states. In 1987 General Babangida created 2 more states 1 from North and 1 from South to give Nigerians a 21 states structure. In August 1991, he further created 9 states to give Nigeria a 30 states structure and balancing number of states between the North and South to 15 states each. In 1996, General Sani Abacha completed the creation of 6 new states to give to Nigerians the 36 states structure with 18 states from the North and South respectively in observance of the federal character principle. Today, Nigeria is loosely divided into six geo-political zones. While each of these geopolitical zones has between six and seven states as the case may be, the south-east zone has only five states. This tendency has warranted an intense call from the south east residents and representatives for the creation of one more state in the region in respect of the federal character principle.

Application of Federal Principle in Revenue Allocation

Disparities in income, social and economic opportunities are traceable partly to natural endowment, partly to the formula for distribution of national resources and partly to historical legacies of colonial administration. The federal character is also applied in allocation of revenue in Nigeria. This is because any heterogeneous society like Nigeria without a justifiable formula for sharing resources between groups is bound to experience wars and all sorts of socio-economic slouches.

It is in recognition of the importance of fair and equitable distribution of national cake to ensure political and economic stability in Nigeria.

Nigerian constitution clearly stipulates some responsibilities to the central government and other powers are reserved to the states or local governments while some other functions are shared by the three of them. The constitutions also make for a controlled distribution of the revenue and resources of the nation to these levels of government. Federal character principle also guides the government expenditure in each region or state. This determines the spread of government services to the people (See Section 162 Sub-Section 1-10 and Section 163 Sub-Section a and b of 1999 Constitution of Federal Republic of Nigeria).

Application of Federal Character Principles in Education Sector

Notably, the different ethnic groups, regions and subsequently states that have existed and exist in Nigeria developed at varying pace in different sectors and the educational sector is not an exception. Since the British government stepped in to educate Nigerians as clerical staff to help in keeping the colony in a subordinate position for colonial continual exploration, Nigerians have continued to struggle for this limited chances for education.

However, British government education style in Nigeria was alien and enslaving, hence, Lord Lugard noted that:

The chief function of government primary and secondary schools among primitive communities is to train the more promising boys from village schools as teachers for those schools, as clerks for local native courts and as clerks for the administration (Ene, 1968).

Meanwhile, the significance of education is outstanding as educational attainment has a correlation with occupation of top economic and political positions in both the public and private lives. In 1955 and 1957, both the Western and Eastern regions respectively introduced the Universal Primary Education while the North was entirely left out. By independence, education had become an issue for the federating units in Nigeria.

In 1974, the National Policy on Education was formed. The main thrust of education in Nigeria was to achieve integration of the individual into a sound and effective citizenry and equal educational opportunities for all citizens at primary, secondary and tertiary levels. Hence the aim of this outfit was to inculcate national consciousness and national unity, the right type of values and attitudes for the survival of the individual and the Nigerian society (Adamu, 1978).

Again deliberate attempt has been made to institutionalize the federal character principle in Nigeria's public affairs. In the educational sector where for instance, the Northern Nigeria is obviously disadvantaged while the South is advantaged, a policy is often recommended to right this wrong. Buggs (1987:142) argued that the panacea for this inequality lay in adoption of the federal character principle in staffing, locating schools and admission of students into schools. Thus he recommended one state one university in Nigeria. Today, more students are admitted in Nigerian universities based on the logic of locality and educationally least developed states than those admitted on the basics of merit

II. Corruption

Many public officials hide under the federal character principle to promote corruption by willingly denying some individuals some positions and granting same to their favorites who lacked primary knowledge of the functions of such office. The people that gained from such immoral and unprofessional act will have no option than promoting incompetence that will end up increasing the rate of corruption in the polity.

III. Inefficiency

By encouraging the recruitment of services of unqualified personnel, the Federal Character Principle sustains inefficiency in service delivery which will in turn, force the government and populace to witness massive economic and financial loss thereby worsening the health of the nation's economy.

POOR QUALITY GRADUATES

With the principle of 'education less developed states,' many qualified candidates are usually denied admission while some candidates that performed woefully in the Unified Tertiary Matriculation Examination are given admission. This is a great set-back to the efforts of government to enhance the nation's education standard. It

even discouraged academic hard work. Nigeria is the only country in the world where citizens are penalized for performing better in examinations and coming from fast developing regions of the country in the name of adherence to the federal character principle. The belief that it encourages some regions of the country to have urge for quality or formal education is even false rather it encourages those regions to neglect hard work because they will achieve the fruit of hard work by the enforcement of the federal character principle. These will end up producing unqualified individuals as graduates thereby making it difficult for employers of labour to find suitable people to employ and at same time increasing the rate of unemployment as no company, organization or corporation will be willing to employ unqualified or unskillful individual into its workforce.

DISUNITY

Originally, the principle of federal character was provided in the constitution to catalyse our unity in diversity but its application has caused envy and jealousy which will lead to disunity. Imagine a situation whereby a citizen worked hard, met the necessary requirements for a position or an admission but was rewarded with denial to such while his or her fellow citizen was given such despite the fact that such individual did not attain the skillful requirement for such but because the individual originated from a state regarded as economic or education disadvantaged. The rightful individual for such opportunity will have no option than to hate the nation called Nigeria and the citizens of such economic and education disadvantaged states thereby leading to disunity.

Challenges of Federal Character Principle in Nigeria

Lack of adequate representation by the federating states in Nigeria constitutes the greatest threat to national integration and economic development. Remarkably the choking socio-economic competition among the various ethnic groups in Nigeria manifest in ethno-regional conflict and tension that characterize Nigeria since 1960. Thus the relationship between these groups is characterized by fear and suspicion of domination of one state or ethnic group by another. This leads to national disintegration and consequent canonical underdevelopment. Meanwhile, this suspicion and fear between groups is historical. However, it became pronounced when Sir Fredrick Lord Lugard began the process of subjecting ethnic groups with a history of mutual distrust and hatred together as one Nigeria. Remarkably, these ethnic groups are not of equal population and hence some tend to dominate others thus exploit others. Today we talk about the Igbos, the Hausa/Fulani and the Yoruba as the major ethnic groups and the Urobo, Itsekiri, Ijaw, Igala, Kanuri, Nupe, Tiv and more than 200 others are referred to as the minority. These inherent competitions for control of the limited resources has the tendency to destabilize hence disintegrate the polity and stifle economic development. This explain, why Dudley (1973) argued that political stability is the inevitable consequence of the failure of constitutional and institutional rules to find firm roots in the society and in the wind of the political actors. This political instability is a consequence of the nature and character of the post colonial states. The Nigeria state could not perform the primary role of state, rather, it become part of the struggle which it ought to moderate. This tends to discourage national integration which is a prerequisite for economic development.

IV. Conclusion

Notably, political and economic imbalances exist among and between the various states or ethnic groups that make up Nigeria. These imbalances arose from the nature and character of the post colonial Nigerian state. These imbalances exist in almost every sector hence most people feel marginalized. The emergence of various militia groups in the Niger Delta is an indication of the existence of rivalries between groups over share of national cake. States of the majority ethnic groups seem to be so strong that they can hold the minorities to a stand-still. This therefore denies the minority groups of their constitutional right of self development and actualization. It is in view of correcting this abnormality that the Federal Character Commission was set up to uphold federal character principles. The Commission was set up to ensure that government decisions reflect federal character on sitting industries, building roads, awarding scholarships, appointment of public office holders, admission, employment and revenue allocation.

The Nigerian state therefore to over-emphasizes, the federal character while deemphasizing merit and hard work and promote & defend mediocrity and parochialism in running of the various sectors of the economy. Based on the above discussion we recommends that while reasonable balance between states is necessary, 70% of merit should be considered for appointment, admission, sitting industries and state creation. This balance should be struck such that unequal things should not be equalled or equal things unequalled to avoid intense contradiction which does not support national integration and economic development.

V. Recommendations

1 The Federal Character Principle should not be made a constitutional matter, but rather a principle to be used in strengthening the national unity of Nigeria. This exemplified in some sections of the country on electoral

matters where positions are been rotated without a constitutional provision. This will curb a lot of things committed in the name of federal character application, such as: corruption, inefficiency, poor quality of graduates and disunity.

2 There should be a national dialogue to discuss the federal character principle so that it will enhance unity rather than bring discord and disintegration.

3 Despite the fact that balance is desired between states, 70% of merit should be considered for appointments, admissions, sitting industries and states creations.

4 The balance should be struck such that unequal things should not be equalled to avoid intense contradictions, which does not support national integration and economic development.

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