



RESEARCH REPORT No. 28

**Federalism, Decentralisation and the Liberalisation
of Business Environment in Nigeria**

Remi Aiyede

**DEVELOPMENT POLICY CENTRE
IBADAN
NIGERIA**

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EXECUTIVE SUMMARY

This study examines how federal restructuring and decentralisation can be tailored towards the creation of an enabling environment for business in Nigeria. It does this by making a comparative assessment of the business environment in Nigeria; exploring the character of federalism and decentralisation programmes in Nigeria. It also examines the implications of these for governance and the business environment in Nigeria while suggesting decentralisation reforms required to enhance government efficiency and effectiveness as well as improving the business environment.

The study noted that decentralization programmes in Nigeria began from the colonial era but have largely taken the form of spatial deconcentration. As a result, they have had the effect of increasing central control and reducing opportunities for citizen participation, and stultified creativity. The restraint in devolving power is attributable to the effort at regime sustenance in the face of limited state legitimacy, the problem of fragile national unity and the prevalence of military dictatorship with its centralizing tendencies. Territorial fragmentation and internal boundary adjustments have resulted in a proliferation of states and local governments; but such levels of government have been without local power that can attract and stimulate participation. Spatial deconcentration has resulted in a bloated states sector, with minimal private sector development, and a suppression of innovative and entrepreneurial energy.

Dependence of sub-national units on oil revenue from the centre has been one of the major reasons for the failure to diversify the economic base of the country. The competition that had characterised inter-state relations under the three and four-region systems in which derivation was a significant factor of horizontal revenue sharing gave way to political struggles for federation funds. Thus, local spending became completely separated from local resources in the name of even development across the country. The centralisation of resources control and the adoption of a general revenue allocation formula provided no incentive for competitiveness among the various sub-national governments.

Decentralisation reforms have become imperative but need to be done democratically. There should be wide spread consultation and negotiation to reach consensus on an ideological base for the envisaged decentralisation programme. There should also be very clear institutional arrangement for

managing the process, realistic and clear-cut distribution of powers and functions among the various governments based on the principle of subsidiarity with clearly spelt out institutions of horizontal and vertical accountability. The programme should be informed by a more practical concern about economic competitiveness, such that the country will be restructured into competing governmental units, providing room for public/private partnership in productive activities at the lower levels, such that would enable the exploration and development of economic potentials of the various states. The current general revenue sharing formula should be reconsidered with a view to promoting competition hand in hand with the drive for equity and accountability. Caution should be taken during the process to avoid fanning the embers of centrifugal forces. Nigeria should borrow ideas from successful decentralisation efforts in other lands.

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In the early 1990s, Nigeria was thrown into economic crisis. The government could no longer meet up with its expenditure commitments in respect of its development programmes. The quest for more revenue to meet these commitments pushed government into various borrowings from both local and international sources. This saw the country's external debt increase to a historic and high level. The state's economic performance became...
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 newly independent and centrally planned African countries. Moreover, this was...
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 stability and regime endurance have embarked on states and local...
 governments creation through territorial fragmentation and the...
 of intergovernmental framework. In 1999 when the country returned to...

CHAPTER ONE

GENERAL BACKGROUND

Is the present obviously military constitution, which masquerades as a federal one, conducive to the development of the south, and indeed, the entire country? – Timubu, Bola (2000)

1.1 Introduction

In the early 1980s when Nigeria was thrown into economic crisis, the government could no longer meet up with its expenditure commitments in respect of its development programmes. The quest for more revenue to meet these commitments pushed the government into frantic borrowing from both local and international sources. This saw the country's external debt increase to a hitherto unknown proportion.

Unfortunately for the country, public parastatals had by this time, become beehives of rent-seeking activities and constituted massive wastes of public investment. They failed to yield returns and stifled private initiative.

An assessment of the situation made it clear that the state's control of the commanding heights of the economy and as the major provider of social services have become unsustainable. The economic crisis therefore unveiled the weak character of the overloaded state, and the inefficiency that had become the hallmark of the state. Thus, like many countries of the world, Nigeria was forced to rethink the role of government in the economy by the protracted economic crisis that followed the expansion of government in the 1970s.

The expansion of the public sector had occurred in a context of growing centralisation of governmental management of the economy. This was informed first by the logic of central planning and then more pointedly by the dominance of the military in the governance of the country. Centralisation and dictatorship did a lot to distort the Nigerian federal structure that was very promising at independence when Nigeria was looked at as a model for other newly independent and culturally plural African countries. Military rule was characterised by an abuse of the policy leadership role of the central government. Successive military rulers manoeuvring to maintain social stability and regime sustenance have embarked on states and local governments creation through territorial fragmentation and the readjustment of intergovernmental frameworks. By 1999 when the country returned to

democratic rule, it remained federal only in name. The states and local authorities have become so dis-empowered that Nigeria could effectively be described as an inefficient and unresponsive unitary state.

Since the return to civil rule, the country has witnessed several intergovernmental conflicts over jurisdictional and tax powers. This is not only occurring between states and local governments but also between the states and federal governments. Several groups within civil society have called for federal restructuring. The organised private sector has also consistently been complaining of high and rising cost of doing business and 'the plethora of taxes and levies from the three tiers of government' arising from the efforts of the lower tier governments to increase independently collected revenue. Public infrastructure remains dismally poor; government agencies are inefficient and unresponsive to popular needs.

Ethnic conflicts and social crimes have also multiplied in the first year of democratic rule. The return to democratic rule has unleashed the irrational underbelly of the decentralisation programmes in Nigeria under the military. This has thrown up issues regarding the impact of these programmes on the character of Nigerian federalism, their consequences for economic growth, the quest for foreign direct investment, the effort towards making the economy private sector driven, and making the government more responsive and accountable to the populace.

The collapse of the state sector and the failure of economic management have made political and economic liberalisation imperative. Political liberalisation seeks to democratise government and make it more effective, efficient, responsive and accountable. Economic liberalisation seeks to retrench the state and open up the business environment for private initiative to flourish. The essence is for the state to create the enabling environment for competitive private sector development. How can this be realised in the context of a deep-seated legacy of politics of patronage, over-centralised government, and inefficient and weak public institutions? What challenges is the government facing in the effort to decentralise? How can the process be made responsive to the effort to make Nigeria competitive in the global market?

1.2 Objectives of Study

The broad objective of this study is to examine how federal restructuring and decentralisation can be tailored towards the creation of an enabling environment for business in Nigeria. The specific objectives are to:

- (a) Make a comparative assessment of the business environment in Nigeria;

- (b) Present a brief historical outline of the character of federalism and decentralisation programmes in Nigeria;
- (c) Examine the implications of this for the business environment in Nigeria
- (d) Determine what decentralisation reforms are required to enhance government's efficiency and effectiveness; and
- (e) Suggest ways of making it improve the business environment.

1.3 Theoretical and conceptual Framework

Three concepts are germane to our enquiry. These are federalism, decentralisation and liberalisation. The three concepts have both economic and political connotations and are located in the interface between government and business.

Federalism is usually viewed as a 'form of governmental and institutional structure, deliberately designed by political "architects", to cope with the twin but difficult tasks of maintaining unity while also preserving diversity' (Jinadu 1979: 15). It is essentially a form of government where the component units of a political organisation participate in sharing powers and functions in a cooperative manner in the face of the combined forces of ethnic pluralism and cultural diversity, among others, which tend to pull their people apart. This arrangement is to provide room for the co-existence of centrifugal and centripetal forces (Tamuno, 1998:13). Within a federal arrangement, each state government is usually saddled with specific responsibilities and so carries its own paraphernalia of administrative institutions like the civil service, the police and parastatals. These co-exist and relate with national institutions. So, relations between the different tiers of government affects the effective operation of the holistic administration of the country as well as administration of the individual units. The nature of these relations defines the particular type of federalism being practised. Thus, within federalist studies, it is established that there are various types of federalism, from strong and weak forms to periodic variations in strength and weakness (Tamuno *ibid.*).

However, the defining feature of federalism is the distribution of powers between the centre and the constituent units by constitutional means (Osaghae 1990). 'Federalism can exist only where there is considerable tolerance of diversity and willingness to take political action through the political arts of negotiation even when the power to act unilaterally is available. The usual prerequisite to action in federal systems is the ability to build a consensus rather than the power to threaten coercion' (Elazar 1977: 30-31). By setting constitutional limits on central and regional governments, federalism disallows dictatorial and authoritarian practices. Federalism demands the rule

of law, respect for fundamental freedoms and democracy. Although federalism is a thoroughly political concept, it represents a decentralised arrangement in the administration and organisation of a country with all the implications that goes with it in economic management. More than this, it represents a particular form of political liberalisation because it not only affirms the diversity of peoples, it provides room for the expression of these diversity by conceding substantial level of independence to the constituent sub-national governments.

The character of decentralisation in a federation is usually represented by the term devolution. In order to understand this import of federalism it is relevant to explore the term decentralisation.

Decentralization is a concept that is usually related to political and administrative purposes. It is usually used to refer to the transfer of legal and political authority from the central government and its agencies to field organizations and institutions. What is transferred often includes authority to plan, make decisions, manage public affairs by agencies or institutions below and apart from the central government or authority. Decentralization programmes often carry elements of ideology, which find articulation in such concepts as individual liberty, pluralist society, grassroots democracy and local self-government. As a programme concept, decentralization calls for the distribution of powers, and proposals for implementing it varies considerably (Theresa Rogers (1978:177).

The United Nations defined decentralization as the 'transfer of authority on geographical basis whether by deconcentration (i.e., delegation) of authority to field units of some department or level of government or by devolution of authority to local government units or special statutory bodies' (UN, 1965: 88-9). Forms of decentralization as expressed in this definition are represented by the terms deconcentration (delegation) and devolution. This method of classifying decentralization departs from a legal standpoint. Devolution refers to the transfer of authority to legally established, locally elected political authorities while deconcentration or delegation involves the conferring of authority on representatives of the central government agencies (UN, 1965, Maddick 1962, Wraith 1971). In the first instance, the activities of the central and local authorities are clearly differentiated, each having its own legal powers and responsibilities. In the second instance, deconcentration is regarded as a more limited form of decentralization in which effective control, particularly over what Faltas (1982) calls 'allocative decision', remains at the centre; while only control over 'decision of implementation' is decentralized. From this standpoint, two factors often determine the character of decentralization, that is, the degree of political or legal powers transferred to

sub-national or semi-autonomous institutions. These are (i) the nature of functions and powers transferred and (ii) the extent of support the central government provides to other sub-national agencies and organizations in performing the decentralized activities.

A very useful contribution to our understanding of the concept is the typology of decentralization espoused by Minis Henry, and Dennis Rodinelli (1989) in their proposal for the promotion of economic development and employment generation in Senegal. Minis and Rodinelli identify three types of decentralization: Spatial, Market, and Administrative decentralization. Spatial decentralization refers to the process of diffusing urban population and activities geographically away from large agglomerations. This appears to describe the character of federal restructuring in Nigeria, which involves internal territorial fragmentation and jurisdictional geographical boundary adjustment. These have created several state and local government capitals for the dispersion of infrastructure. Market decentralization refers to the process of creating conditions in which goods and services are provided by market mechanisms rather than by government decision. Administrative decentralization refers to the transfer of responsibility for planning and management as well as the raising and allocation of resources from the central government to its agencies, to field units of government agencies, subordinate units and levels of government, semi-autonomous public authorities or corporations, area-wide, regional or functional authorities, or non-governmental, private or voluntary organizations. Therefore, decentralization can be used to refer to four main processes: devolution, deconcentration, delegation and privatisation.

Devolution involves creating or strengthening autonomous sub-national units of government by transferring functions that are implemented outside the control of central government to them. It is essentially a political activity consisting of power-sharing between sub-national governments and the central government. Devolution of political, fiscal and administrative powers to sub-national tiers of governments is now commonly taken as a step towards deflating states that are considered over-bloated and riddled with inefficiencies. The aim here is not only to improve efficiencies and responsiveness of the public sector but also to accommodate explosive political forces (World Bank, 2000: 107-124; Njuguna Ng'ethe, 1998).

Deconcentration signifies the distribution of responsibility or authority to lower levels within the central government. This usually takes the form of setting up field offices at the provinces, regions, divisions or districts of the country.

Delegation refers to the conferment of managerial responsibilities for specific functions of the central government on organizations outside the regular bureaucratic structure. Here the organisations enjoy varying degrees of autonomy. This form of decentralisation may involve the setting up of boards for schools and hospitals.

Privatisation is about transfer of activities from the public to the private sector. It is more generally located within the context of economic deregulation and liberalization. One very important characteristic of these processes is that they are state-focused. And, as we have noted, such movements are justified on grounds of efficiency and democracy.

Decentralization as part of political liberalisation is usually embarked upon to provide avenues for the people to express their real needs and to take greater interest in realizing them. Certain advantages result from expanding access to decision-making points and increasing representation and participation. They reduce conflict, promote geographical equity, reduce the clout of large units and thereby promote national unity. They also solve problems of congestion and over-load of central governments, promote efficiency and effectiveness, improve service delivery, invent and promote national development (Mukandala Rwekaza 1998:3). Thus, decentralisation within a federal system would involve shifting responsibilities from the central to state, or local governments, or from the state to local authorities or from these governments to non-governmental or private or civil society organisations. This usually occurs as part of the process of opening up (liberalisation) both in the economic and political sense.

Liberalisation in the economic sense refers to the relaxing of government grip on the economy, transforming the legacy of antagonistic relations between private sector and the government in order to prop up the private sector as the engine of economic growth. Liberalisation involves the dismantling of barriers in the trade and payments system, the removal of price, trade and exchange controls. This creates an environment for trade, capital and investments to flourish by avoiding price distortions. This is underlined by the belief that price controls 'discourage necessary investment, divert effort into unproductive activity, and encourage inefficient use of resources. (World Bank 1997: 48). Divesting state holdings in the economy through privatisation then supports liberalisation by providing room for private initiative to thrive in a market environment.

There are specific challenges within the federal system either in terms of the constitutional and legal bottlenecks that have to be reviewed in order to carry out these reform programmes and achieve the goal of economic liberalisation that leads to effective and efficient service delivery. Since decentralisation assumes that the constitution of the powers of government

affect the capacity of the state to perform, a more fundamental question for democratising contexts as we have in Nigeria would then be whether federal systems or devolution have advantages over non-federal systems in economic policy-making. Also significant is whether there are basic principles that guide the process of devolution to facilitate the market system.

John Kincaid (1999) has noted that modern federalism emerged at about the same time as the concept of the market economy and that one very important reason for the formation of the federal union was the need to create a common market that would facilitate the movement of goods. He also attributes the emergence of the European union to the same reason. Describing the relative compatibility of the federal framework to the market economy framework, he identifies some advantages that democratic federal systems are likely to have over non-federal systems in the pursuit of economic growth. He noted that federal systems have performed too unevenly well to allow for broad generalisations. Among the advantages of democratic federation are: (1) more efficient provision of public services; (2) better alignment of the costs and benefits of government for a diverse citizenry and, thereby, more equity insofar as citizens get what they pay for and pay for what they get; (3) better fits between public goods and their spatial characteristics, especially the variable economies of scale of different kinds of public goods; (4) increased competition, experimentation, and innovation in government sector; (5) greater responsiveness to authority and capacity to respond to those preferences; (6) more transparent and close to the citizen accountability in policy-making; (7) more sensitivity to sub-national regional concerns, including the power of constituent governments to provide for their own needs. These advantages seem to represent the specific objectives of any devolution programme if the promotion of a market oriented economy in which the state is an effective and responsive enabler is a prime goal of the process.

Liberalisation of the business environment implies reducing the 'costs enterprises face in starting, operating or expanding their business' (World Bank, 1995). It not only implies the introduction of measures (policies) to remove impediments to trade and investment, and reduces complex and discretionary regulations, it also mitigates high cost of social and physical infrastructure. This reduces the economic and political uncertainties that increase transaction costs.

In a country like Nigeria that has introduced economic liberalisation and deregulation policies the capacity of government to infuse these policies with life through effective implementation becomes very crucial. The crux of the matter is that the structure and organisation of the state affect the effectiveness and efficiency of government in terms of development policy-making and implementation and impacts on social and political stability. These have impact on the capacity of the governments to play the role of securing the social, political and economic conditions that will enable business to flourish.

CHAPTER TWO

THE BUSINESS ENVIRONMENT IN NIGERIA

In Nigeria the business environment calls for serious intellectual attention as the country strives to establish a market oriented economy in which the private sector will be the engine of growth. The general political and economic environment under which business decisions are made and business activities undertaken have to be made friendly for business if the country is to attract foreign direct investment (FDI) as part of the wider effort to build up a large stock of productive assets and diversify the economy. Key determinants of the flow of private investment have to be given serious attention in political and administrative reforms. These include profitability of investment, macroeconomic uncertainty, external shocks and the associated factors such as political and social stability, quality of institutions, level and structure of public investment and important factors that affect the business environment. This is the case because Nigeria has performed poorly on each of these factors.

In a recent analysis of the business environment of countries, the Economic Intelligence Unit provides a ranking of the business environment of countries between 1993 and 1997 and projected this to 2002. The determinants of the condition of the business environment are categorised into two broad groups of factors. The first is the political environment. This refers to such factors as political stability and political effectiveness. Political stability is usually measured by the frequency of armed conflict, social unrest, frequency in change of government, terrorism and international disputes. While political effectiveness is measured by the presence of appropriate government policy, the efficacy of these policies, bureaucratic competence in terms of degree of red tape, legal system, corruption and the rate of crime. The second is the economic environment. This refers to the macroeconomic environment, policy towards foreign investment and the financial architecture. Macroeconomic environment is measured by price stability, budget balance, government debt, exchange rate volatility, and external balance. The foreign investment policy and environment is measured by the size of foreign investors already in the economy, openness of national culture, expropriation risk, and investor protection. Health of the banking sector, state of the stock market, levels of financial distortions, financial regulations, and foreigners' access to the capital market and access to investment finance measure the strength of the financial system. These key elements of the business environment change over time. Nigeria's rating is presented in Table 1.

Table 1: Business Environment Ranking of Countries 1998-2002

	Ia Political stability	Ib Political effectiveness	I Political environment	II Economic stability	III Market opportunities	IV Private ent Policy	VI FDI policy	VII Foreign trade & exch.	IX Tax regime	VIII Financing	IX Labour market	X Infrastruc- ture	Total score	Rank
Netherlands	9.6	9.3	9.4	9.2	7.2	9.2	9.4	9.4	7.7	10.0	7.6	9.1	8.82	1
UK	8.2	9.6	9.0	9.8	8.1	9.4	9.4	8.9	7.5	10.0	7.4	8.2	8.77	2
Canada	8.2	8.5	8.4	9.6	8.4	8.9	8.9	9.4	6.7	9.3	7.3	9.6	8.63	3
USA	8.2	7.4	7.8	8.9	8.4	8.9	8.9	8.9	7.1	10.0	7.9	9.3	8.59	4
Singapore	6.0	8.5	7.3	9.6	6.0	8.0	9.4	10.0	7.9	9.3	7.9	8.7	8.40	5
Switzerland	9.6	9.3	9.4	9.7	6.0	8.3	7.8	8.9	8.2	9.3	7.4	9.1	8.39	6
Denmark	9.1	8.9	9.0	9.8	6.1	9.4	8.9	7.8	6.6	9.6	7.0	9.6	8.37	7
Sweden	10.0	9.3	9.6	9.6	7.3	8.3	9.4	9.4	5.4	8.5	6.5	9.6	8.36	8
Ireland	9.1	8.1	8.6	9.1	6.7	9.2	8.9	9.4	8.0	8.1	7.4	7.5	8.28	9
Germany	8.2	8.1	8.2	9.2	8.4	8.6	8.9	8.9	6.1	8.9	6.3	9.3	8.27	10
New Zealand	9.6	9.3	9.4	8.7	4.7	9.2	7.8	8.9	8.0	9.6	7.2	8.9	8.23	11
France	7.8	7.8	7.8	9.2	8.4	8.0	9.4	8.9	5.3	9.3	6.7	9.3	8.22	12
Hong Kong	6.9	7.4	7.1	6.3	6.4	8.3	8.3	10.0	10.0	9.3	8.0	8.4	8.21	13
Australia	9.6	8.9	9.2	8.7	7.7	8.6	8.3	9.4	6.8	8.9	6.8	7.8	8.21	14
Finland	9.6	8.9	9.2	9.8	6.2	8.9	8.3	8.3	7.1	8.9	5.7	9.3	8.17	15
Belgium	8.7	7.0	7.8	8.8	7.2	8.0	9.4	9.4	5.6	9.3	7.0	9.1	8.16	16
Norway	9.6	8.5	9.0	9.8	6.3	8.6	6.6	8.3	7.8	9.3	6.2	8.9	8.07	17
Spain	8.7	7.4	8.0	9.2	7.8	7.8	8.9	8.9	5.7	8.9	7.1	8.2	8.04	18
Taiwan	6.9	7.0	6.9	8.7	7.9	8.0	7.8	8.9	8.0	8.1	8.1	7.3	7.97	19
Austria	9.1	8.1	8.6	8.5	6.6	8.3	8.9	8.9	5.7	8.1	7.0	8.4	7.91	20
Chile	7.8	7.8	7.8	8.0	6.6	9.2	8.9	6.6	8.2	8.9	8.5	6.2	7.88	21
Portugal	9.1	7.4	8.2	9.1	5.7	8.6	8.9	8.3	6.0	8.5	7.2	7.3	7.77	22
Italy	9.1	6.3	7.5	8.8	8.1	7.5	8.9	8.3	5.2	8.5	7.0	7.1	7.68	23
Japan	9.6	7.4	8.4	8.1	7.6	7.5	7.2	7.8	5.1	8.5	7.0	8.7	7.57	24
Argentina	6.9	6.3	6.5	8.7	7.5	7.8	8.9	7.2	5.1	8.1	6.4	5.5	7.16	25
South Korea	6.4	6.6	6.5	7.0	6.9	6.9	7.8	8.9	6.6	7.4	6.3	7.3	7.15	26
Malaysia	8.7	5.9	7.1	7.8	6.1	6.1	7.2	8.9	6.6	7.0	7.3	5.7	7.08	27
Israel	4.2	6.3	5.3	6.3	5.2	7.5	10.0	6.6	6.5	7.4	6.8	7.5	6.90	28
Poland	8.7	5.9	7.1	6.1	6.9	7.5	7.8	8.9	5.4	7.0	6.6	5.7	6.88	29
Philippines	6.9	4.8	5.7	7.2	5.7	6.9	7.8	8.9	7.4	6.6	7.6	4.6	6.83	30
Hungary	7.3	5.9	6.5	5.2	5.1	7.5	8.3	8.3	6.1	7.4	7.5	6.4	6.82	31

Table 1 cont'd.

	Ia Political stability	Ib Political effectiveness	I Political environment	II Economic stability	III Market opportunities	IV Private ent. Policy	VI FDI policy	VII Foreign trade & exch.	IX Tax regime	VIII Financing	IX Labour market	X Infrastruc- ture	Total score	Rank
Czech Republic	8.2	5.9	6.9	7.0	5.3	7.2	7.8	8.9	4.6	6.3	7.5	6.6	6.79	32
Mexico	5.5	4.8	5.1	6.7	8.2	7.2	7.2	8.9	6.0	7.4	6.3	4.8	6.78	33
Thailand	6.4	5.5	5.9	8.3	5.8	6.6	7.8	8.9	7.2	6.6	6.2	4.4	6.76	34
Greece	7.3	6.6	6.9	7.4	5.1	6.9	7.8	7.2	5.7	7.8	6.2	6.2	6.71	35
Brazil	8.7	4.8	6.5	5.4	7.4	6.9	7.8	6.7	4.6	7.8	5.9	4.8	6.32	36
South Africa	6.0	5.1	5.7	6.7	6.3	6.3	6.6	7.2	6.1	7.8	3.8	6.6	6.31	37
Peru	6.0	5.1	5.5	6.3	4.7	6.3	6.3	6.1	6.8	6.3	7.0	4.6	6.19	38
Colombia	5.1	5.1	5.1	4.9	5.2	6.1	8.9	6.6	5.6	7.8	7.2	4.4	6.18	39
Turkey	5.1	5.1	5.1	2.9	6.5	6.1	7.2	8.3	5.5	6.6	6.3	5.3	5.97	40
Egypt	5.5	5.1	5.3	6.6	5.3	5.5	7.8	6.1	5.5	6.3	6.2	4.6	5.91	41
Slovakia	6.4	5.5	5.9	5.7	3.9	5.2	6.6	8.3	4.4	5.5	7.5	6.0	5.90	42
Saudi Arabia	4.6	5.5	4.9	8.3	5.3	6.6	4.9	6.6	5.7	5.5	5.6	5.3	5.88	43
Sri Lanka	4.6	5.1	4.9	5.8	4.2	6.1	7.2	7.2	6.5	5.5	6.8	4.2	5.83	44
China	5.1	4.8	4.9	7.0	8.4	4.4	6.6	7.8	4.6	4.8	5.6	3.7	5.76	45
India	6.4	5.1	5.7	6.2	7.5	5.2	6.6	6.1	6.0	5.9	5.9	2.4	5.75	46
Indonesia	3.3	3.6	3.5	6.1	4.4	5.5	5.5	8.9	6.6	5.9	6.2	3.9	5.63	47
Bulgaria	6.4	4.4	5.3	7.5	3.3	5.8	6.6	6.6	4.1	5.1	6.3	5.7	5.63	48
Russia	5.5	3.6	4.5	6.7	7.1	4.9	4.4	7.8	4.1	5.1	6.8	4.8	5.62	49
Romania	7.3	4.8	5.9	4.6	3.9	5.8	6.6	6.6	4.8	5.5	6.7	5.5	5.60	50
Venezuela	5.5	3.6	4.5	5.6	5.9	4.4	6.1	6.6	6.0	5.5	5.6	5.3	5.54	51
Vietnam	5.5	4.0	4.7	5.8	4.7	4.7	6.6	6.6	5.7	4.4	6.7	2.4	5.23	52
Pakistan	3.3	3.6	3.5	4.5	4.7	5.5	6.6	6.6	5.5	5.5	5.8	3.9	5.21	53
Kazakhstan	6.0	3.6	4.7	6.0	4.8	4.4	5.5	6.1	4.1	4.4	6.2	4.2	5.02	54
Ecuador	5.5	4.0	4.7	3.9	3.5	5.5	5.5	6.1	6.1	5.1	5.5	3.5	4.94	55
Ukraine	6.0	3.6	4.7	6.0	4.0	4.4	4.9	5.5	3.8	4.4	6.6	4.4	4.86	56
Algeria	4.2	4.0	4.1	6.3	4.4	4.1	5.5	6.6	5.3	2.9	4.2	3.9	4.73	57
Nigeria	2.4	1.8	2.0	5.5	5.3	3.0	4.9	4.4	6.9	2.9	5.0	1.9	4.17	58
Iran	4.6	3.6	4.1	5.3	5.6	2.7	2.7	2.7	2.8	2.9	2.6	3.7	3.51	59
Iraq	1.5	1.8	1.6	3.7	3.1	1.0	1.6	1.0	1.3	1.0	2.5	3.5	2.03	60
Average	6.9	6.1	6.5	7.3	6.1	6.8	7.5	7.7	6.0	7.1	6.5	6.3	6.78	
Median	6.9	5.9	6.5	7.1	6.1	7.0	7.8	8.3	6.0	7.4	6.7	6.1	6.83	

Sources: The Economic Intelligence Unit

From this table, Nigeria takes the 58th position of the 60 countries surveyed. Its total score of 4.17 is far below the average score of 6.78 and the median score of 6.83. It ranks only above Iran and Iraq. Of the four African countries, South Africa, Egypt, Algeria and Nigeria included in the survey, Nigeria is the poorest. South Africa takes the 37th position, Egypt 41st and Algeria 57th. Nigeria did very poorly in terms of political stability scoring 2.4 below the average score of 6.9. The reasons for this are not far fetched. The country has become politically volatile since 1993 when a presidential election was annulled. In that year alone Nigeria recorded two undemocratic changes of government. Under the tyrannical rule of General Sani Abacha (1993-1998) governance witnessed unprecedented arbitrariness and political assassinations became the order of the day. Unfortunately the return to democratic rule did not immediately return peace to the country. Rather democratisation provided room for the explosion of bottled up grievances. The country witnessed the proliferation of militant youth movements who engaged the police in violent conflicts in several cities. The current elected government has taken steps to check these groups.

Nigeria also falls below average in regard to political effectiveness. It falls below the three other African countries. The economic policy environment is also dismal. The only indices that appeared good is tax regime where Nigeria scores 6.9 above the average score of 6.0 and the median score of 6.0. This has been made possible by the adoption of neoliberal reforms from 1986. Nigeria's poorest score is the area of private enterprise promotion policy (3.0) and Financing (2.9) against an average score of 6.8 and 7.1 respectively.

In a recent survey done by the Development Policy Centre (DPC) on the private sector, it was discovered that the following were responsible for the high cost of doing business in Nigeria: '...uncertainties and frequent changes in government policies, corruption and bureaucratic bottlenecks, harassment by government officials, and virtual powerlessness in getting redress through the judicial system in the event of contractual default' (DPC, 1999:69).

Although the Federal government has provided a list of approved taxes to be collected by the various tiers of government via Decree No. 21 of 1998, private business continue to suffer from the unauthorised actions of sub-national governments striving to increase revenue, and who refuse to comply with the list. The judiciary is very weak and there is little or no confidence in the court system. Corruption is rife. One of the most challenging problems is at the ports and the borders. Apart from the prolonged transit time, custom agents collect illegal levies and taxes at roadblocks and harass business people at the borders. At the ports, customs agents hoard information and charge

unofficial fees rendering the movement of goods through Nigerian ports costlier than those of neighbouring countries. These have hampered export promotion within the Economic Community of West African States (ECOWAS) market.

The private sector also complains of undue delay in the refund system on the recovery of input VAT on raw materials used for non-VAT able goods. The ineffectiveness of government has resulted in very high transaction costs (MAN, 1999:7).

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CHAPTER THREE

FEDERALISM AND DECENTRALISATION IN NIGERIA

3.1 Federal Restructuring in Nigeria

Federal restructuring has become a contentious issue in Nigerian politics today, not because of the effective application of the principle to the problem of diversity or ethnic pluralism as by the fact that it has remained difficult, contentious and yet promising. The origin of the federal structure in Nigeria is traced to the amalgamation of the southern and northern protectorates of Nigeria in 1914 by the British colonial authorities. The northern and the southern protectorates were amalgamated purportedly to introduce economy into the administration of the country. In 1939 Sir Bernard Bourdillon in a bid to introduce an efficient administration into the country split the Southern Protectorates into two. The Constitutions of 1946 and 1951 provided for a decentralised administrative structure consisting of Eastern, Western and Northern regions. This decentralisation of administration marked the origin of the federal structure. Although it has been argued that the colonial authorities had no intention of complementing this administrative decentralisation with federal practice (Ayoade 1988:21), Nigerian rulers and politicians seemed to be enamoured of the federal idea since then. Indeed, the effort to improve federal practice has translated into repeated restructuring of the country.

The first restructuring of the country after independence was done in 1963 under democratic rule; the Mid-West was excised from the west, one of the three regions existing then. The second occurred in 1967 at the beginning of the civil war under military rule. Unlike the first, which was done after a referendum as prescribed by law, it was done by military decree. It also involved a radical departure from the first in terms of its implication for the status of sub-national governments in relation to the centre. Successive military governments turned territorial fragmentation into an instrument of political control that saw the country move from a twelve-state structure in 1967 to 19 in 1976, 21 in 1987, 30 in 1991 and 36 states from 1996. The number of local governments has moved from 103 in 1979 when the central government intervened in the local government system to 774 in 1996. These exercises have far reaching implications for governance in general and the business environment in particular.

3.2 Reasons Underlying Previous Efforts at Restructuring

Nigeria embarked upon the 1963 state creation exercise to deal with fears of domination by minority communities and interests. It was thought that creating a state for minority groups would protect these groups in regions dominated by major ethnic groups by expanding the room for self-determination. The second reason (particularly relevant to the 1967 exercise) was to restructure the federation in such a way that no one state or group of states could threaten the corporate existence of the country or hold the country to ransom. In carrying out the exercise, particular consideration was to be given to economic viability (Gowon, 1996:27). As time passed by, economic reasons became completely overshadowed by political expediency. For instance the 1987 and 1991 exercises were informed by three principles according to the views of the prime actors in the process. The first was the principle of social justice, which implied the mollification of those who have been cheated by previous state creation exercises. The second was the principle of even spread of development centres across the country, since new states and localities were to have direct access to federal funding. The third was the principle of equal distribution of units between the north and south, and between the east and west. In doing this adequate recognition was to be given to historical, socio-cultural and geographical relationships among the country's over 250 ethnic groups (Suberu 1994:16, Aikhomu, 1996:53). With the benefit of hindsight, it is clear what vision of governance the initiators of these exercises espouse. This becomes clearer if one considers the impact these exercises have had on governance and the business environment chief of which is the centralisation of power and the use of weak sub-national units as channels of patronage.

CHAPTER FOUR

IMPLICATION OF PREVIOUS FEDERAL RESTRUCTURING FOR GOVERNANCE AND BUSINESS ENVIRONMENT

4.1 Federal Restructuring and Governance

Generally, states and local government creation exercises in Nigeria have centralized the control of resources and stripped the powers of the lower tiers of government. These exercises have reduced states and local governments to mere channels for the distribution of revenue from centralised sources, albeit inequitably, to the constituent communities. In doing this, it carried away the independent revenue sources of sub-national governments, weakened administrative effectiveness and undermined accountability of the lower tiers of government to their populations.

Once the war began in 1967, the federal government divided the country into twelve states and centralized the management of resources in order to support the war effort. According to Decree No 27 of 1967 the 'Legislative and Executive powers of the newly created states in Nigeria were limited for the time being to residual matters.' Although, General Yakubu Gowon, the then Head of State, had assured the country that national institutions will be redefined after the war through a constitution that would be drafted by representatives of all sectors of the country, he later announced in 1974 that the implementation of the third national development plan had made it imperative that resource management remained centralized. According to him, 'If we are to rely on existing revenue allocation formula, no state government except two will be in a position to finance even a single year's program on the basis of the projected surplus.' The centralization of the management of resources was also accompanied by greater intervention of the central government in the economy.

Asobie (1998:18) has identified three manifestations of the centralisation trend in Nigeria under the military. The first is the increasing capacity of the central government to alter unilaterally and in its favour, the existing distribution of power between it and other tiers of government while the second is the increasing accretion to the federal government of functions that are previously allocated to the lower tiers of government. The third form is the reduction in the range and quantum of resources – coercive, bureaucratic, ideological and financial – that are directly available to the lower tiers for

carrying out constitutional functions and the increase in those at the disposal of the federal government.

The repeated exercise of territorial fragmentation since the centralisation of economic management and the emergence of the country as an oil rentier state has put a question mark on the claim of territorial fragmentation as a development strategy. Suberu (1994: 3) has described it as 'a distributive policy that enhances access to federal resources for some of the nation's cultural territorial segments.' This is because the sub-national governments not only derive a huge amount of their revenue from oil revenue collected by the federal government, the central government has unilaterally appropriated or abolished the independent revenue jurisdiction of these governments. The few left, such as personal income tax, vehicle licensing fees, land charges and sales tax, are inherently limited as sources of public revenues and are often weakly or inefficiently exploited by state administrations or sometimes regulated, restricted or even brazenly appropriated by the centre.

While, as Asobie has noted, the Constitution under which the military handed over to the elected government in 1979 provided for a high level of concentration of power at the centre, it is less so than the current 1999 Constitution under which the Fourth Republic operates. True, many matters which were previously in the concurrent list were transferred to the exclusive list and even those that were still left in the concurrent list were treated as though they were exclusive to the federal government in the 1979 Constitution. Indeed, under that constitution, the federal government acquired powers over the direction and management of the whole of the Nigerian economy and the promotion and enforcement of the observance of the fundamental objectives and directives principles of the Nigerian federation (Asobie, 1998:27). But the 1979 Constitution contained a residual list of matters reserved for sub-national governments. This list has been abolished by the 1999 Constitution bequeathed by the military. Centralisation is taken so far by this Constitution that marriages apart from those under customary and Islamic laws are placed under federal jurisdiction!

One very important political practice that has coloured the decentralisation programme is the practice of giving considerable importance to inter-state/local area equity in the distribution of allocation from federally collected revenue to sub-national units. Derivation as factor in the distribution of revenue among the various sub-national governments which used to be emphasised in the period when agricultural export was the main stay of the economy had become insignificant by 1978 when non-oil export had all but disappeared (Tobi 1991). What is more, the federal character principle is interpreted and operationalised as a means of distributing federal amenities

and opportunities including public employment on an equal basis among the states and local government areas of the federation. This principle works against rational decision-making that can produce a competitive and efficient system. The heavy financial dependency on the centre under the military gave 'the state every incentive to get more funds from this source, encourages financial irresponsibility and sets up strong forces for the creation of new states.' (Tom Forrest as cited by Suberu 1994:3). Indeed, states creation under the military became a by-product of pressures for greater avenues for political and material advancement by local elites and their communities (Suberu 1998:280). Thus, the political economy of state creation exercises show that they reflect the politics of patronage and were done without spelt out basis that reckon with need to promote both equity and competitive growth.

States and local governments creation exercises have also paid little premium on accountability and local preferences. They involved the unilateral splitting of states by the federal military governments through the issuance of decrees rather than by consultation and participation of those who were affected by the exercise. They therefore resulted from the usurpation of the powers of the federating units by the national government. Done under military rule, they constituted an arbitrary exercise. No constitutional procedures were observed. The fall out of arbitrariness has not only affected the legitimacy of the exercises, it has also affected social stability arising from agitations by discontented communities. They have, in some instances, generated inter-ethnic violence over the location of local government headquarters and inclusion of communities in states they never wanted to join. What is more, the dependence of the lower tiers on central resources for their revenue separates the location of the cost of service delivery from the location of the beneficiary; this reduces governance to paternalism. It is no wonder that there is so much corruption and lack of transparency at all levels of government.

In short, the multiplication of administrative structures that they entail has served to increase the cost of running the government while leaving little resources for infrastructural and social development. Table 2 shows the rise in the cost of administration in Nigeria as the number of states increased. The dysfunctional nature of the decentralisation in Nigeria is buttressed by the widespread fall in government performance amidst a significant rise in government expenditure.

Table 2: Recurrent Expenditure of State and National Governments: 1984 - 1999 (N'million)

Year	States recurrent expenditure (N'million)	Annual % change	Combined recurrent expenditure of state and National Governments (N'million)	Annual % change	No. of States
1984	4,590.6	-	10,866.0	-	19
1985	4,823.1	5.1	12,038.4	10.8	19
1986	4,601.0	-4.6	12,297.9	2.2	19
1987	5,721.2	24.3	21,367.4	73.8	21
1988	7,193.4	25.7	26,602.8	24.5	21
1989	8,140.6	13.2	34,054.8	28.0	21
1990	13,387.5	64.5	49,607.1	45.7	21
1991	15,872.3	18.6	54,115.8	9.1	30
1992	20,780.3	31.0	73,909.2	36.6	30
1993	29,992.3	44.3	166,719.4	125.6	30
1994	35,178.8	17.3	125,153.4	24.9	30
1995	45,356.9	28.9	155,918.4	24.6	30
1996	54,397.2	19.9	172,684.6	10.8	36
1997	58,956	8.4	202,503.8	17.3	36
1998	75,124.7	27.4	236,552.4	16.8	36
1999	102,690.1	36.7	411,273.2	73.9	36

Source: CBN Annual Reports and Statements of Accounts (various issues)

Worse still, they have created a situation where sub-national governments suffer deficit in revenue powers that should enable them to prosecute their constitutional functions. The exercise has therefore amounted to a process of political and economic disempowerment for sub-national units. The states continue to rely heavily on allocation from the federation account to meet basic responsibilities. Table 3 shows the movement towards increased centralisation in Nigeria's fiscal federalism following the state creation exercises in the 1980s and 1990s.

Table 3: Independently Sourced Revenue of the States in Relation to Revenue Appropriated from the Federation Account: 1988-1999 (N Million)

Year	Independent Revenue (a)	Appropriation from the Federal Government (b)	Total	Extent of Dependence of States on (b) %
1988	2,169.0	8,823.0	10,992.0	80.3
1989	2,760.0	10,785.6	13,546.2	79.6
1990	2,726.2	15,943.8	18,670.0	85.4
1991	3,147.1	19,434.3	22,581.4	86.1
1992	5,244.7	27,428.9	32,673.6	83.9
1993	5,726.2	32,014.4	37,740.6	84.8
1994	10,929.8	38,576.3	49,506.1	77.9
1995	17,287.3	118,714.7	69,641.6	75.6
1996	19,467.1	159,562.5	88,882.4	78.8
1997	27,368.2	166,557.0	193,925.2	85.9
1998	29,213.9	257,191.1	286,405.0	89.8
1999	34,109.0	303,871.2	337,980.2	89.9

Source: Calculated from Central Bank of Nigeria (CBN) Annual Report and Statement of Account, several years.

Here we see increasing dependence of the sub-national governments on national government for meeting their basic expenditure obligations. Federal allocation accounts for up to average of 80 per cent of total revenue of the states against the highest point of 55.7 under the four-region structure. The 'nature of the revenue (sources) assigned to the different levels of government and by the principles of allocation employed by the federal authorities' determine the revenue conditions of the various governments (Asobie, 1998: 47). It is quite vivid that the decentralisation programmes have not improved the administrative effectiveness of sub-national units.

Indeed, the governments at the state and local levels spend most of their revenue in paying employees with little or nothing left for infrastructure, basic health and education. Indeed, the weak financial base of these governments also meant that these employees are hardly paid competitive salaries. With the massive corruption for which top public officials are known in Nigeria, the widespread low morale among the rank and file of the public sector and the attendant brain drain aggravate the problem of inefficiency and ineffectiveness of the public sector. With ineffective and incompetent governments, it is no wonder that Nigerian governments have not been able to provide an effective and stable environment for private initiative to flourish. The few private sector operators continue to complain of the prohibitive cost of doing business in Nigeria owing to weak infrastructural base. This is why Nigeria is unable to attract foreign investment in the non-oil sectors in spite of its large market. Clearly, state and local government creation has not attained most of the gains of decentralization; it has brought several disadvantages. Nigerian physical infrastructure has collapsed. The transport system is terrible. Electricity supply is epileptic. Educational standards have fallen and other social services supplied by the state have witnessed a down turn. These are precisely what decentralisation measures were expected to prevent. Suberu sums up the negative impact of states and local government reorganisation exercises thus:

The promotion of the 'cake-sharing syndrome; the augmentation of the centre's political and economic hegemony via the erosion of the size and resource base of sub-national governments; the proliferation of unproductive, corrupt, wasteful and unviable political and administrative units; the intensification of ethnic, regional and communal tensions over the beneficiaries and modalities of territorial restructuring; the stimulation of 'neoethnicity', or new forms of

parochial, divisive and exclusionary identities; and the legitimisation of autocratic military rule (Suberu 1998:292)

These political problems have direct impact on the strength of the state as an enabler. Indeed, the decentralisation programmes are themselves expressions of the governance crisis that has affected the management of the economy.

4.2 Federal Restructuring and Business Environment

The communal unrest and the feelings of discontent that have attended the series of decentralization programmes have worsened the problem of order and security that affect the environment of business. Indeed the 1996 reorganization occasioned series of communal unrest in almost all parts of the country. The way and manner the decentralization programmes were done further deepened distrust among ethnic groups in Nigeria. Political discontent has thrown up ethnic militias that have become prominent in the post military era. In Lagos, Nigeria's commercial nerve centre, the activities of Oodua People's Congress' (OPC) virtually reduced some sections of the city into war zones.

Also, the changes that have attended the repeated reorganization exercises, which usually involved the redefinition of territorial jurisdictions, have made the regulatory environment of business highly unpredictable. In fact, within a short period business organisations find themselves having to relate with different governments at both the state and local governments even though they have not relocated their offices and plants.

Moreover, the multiplication of administrative structures placed greater regulatory demands on the central government far beyond the capacity of the central administration. The transfer of items like the registration of business names, labour and trade union matters, police, tax of incomes, profits and capital gains, incorporation of companies, and trade and commerce from the concurrent list to the exclusive list since 1979 worsened this. For instance in order to register a company in Port Harcourt, River State, an investor has had to relate with the corporate affairs commission (CAC) in far away Abuja. It was not until the 1990s that branches of the CAC were opened in the state capitals. Registering a business can be a complicated issue indeed. Apart from having to deal with the federal government, with motley of conflicting laws, the weakness of the judiciary present a challenge of its own. Indeed the frequent recreation of states also worsens the legal institutions at the lower levels of government. The courts were weakened by ouster clauses included in military decrees and the penchant to disobey court orders by government

officials. Judges are also known to have connived with dictators and sold justice to the highest bidder. Thus, private actors have no basis for confidence in the power and capacity of the courts to judge objectively and get their judgment enforced.

In terms of the macro-economic environment, the reduction of territorial reorganization into an instrument of political control and regime legitimacy has undermined budgetary discipline that was supposed to ensure stabilization and support economic liberalisation. This is the case because the possibilities of arbitrary behaviour by dictators were given full rein in the exercises. Extra budgetary expenditures were usually incurred as the central government tried to provide take off grants for new states and localities. Because such grants were often un-programmed into the budgetary system they engender deficits and inflationary pressures.

The federal character principle which is interpreted and operationalised as a means of distributing federal amenities and opportunities on an equal basis among states and local government areas, works against rational decision-making in public investment. All that the ruler has to do is to think out a programme and distribute it evenly across the country even when it is not needed in some parts. The implication of this for public investment as Utomi (2000:93) has explained, is 'the dispersion of inappropriate industries to zones where their uncompetitiveness is heightened. Instead of locating factories as per the factor of endowments of these regions of the country, the need to get the same things evenly spread has stymied possibilities of growth and development.'

Although government has continued to remove barriers to foreign investment and expand the room for private actors through the series of liberalization measures since the late eighties, lack of transparency and unpredictability of the regulatory environment that were occasioned by the ill-conceived restructuring exercises have adversely affected business decision making and limited growth.

The failure of public infrastructure is particularly telling on private sector development. Private businesses incur large overheads in providing water and electricity thereby reducing the competitiveness of Nigerian firms. In fact, a survey by the Nigeria Institute for Social and Economic Research (NISER) attributes the non-competitiveness of Nigerian exports to 'low quality and astronomical domestic production cost traceable to infrastructural deficiencies' (NISER, 2000:75). Yet the provision of infrastructure could benefit from popular participation and broad involvement of private and non-governmental organisations in their provision and maintenance.

Overall, poverty has deepened in the last decade, while social crime is on the rise. These, coupled with the public unrests that have characterised arbitrary rule of the military, made the Nigerian environment the investors' nightmare. There is need for Nigeria to come out of the infrastructural neglect and institutional failures that were inherited from the military and redefine its federal structure to minimise intergovernmental conflicts over functions and jurisdiction of government and improve the effectiveness of the state.

Indeed, the imperative of federal restructuring has been widely recognised. The weakness of the 1999 Constitution has also been recognised by the government and a review process is on. Such an exercise should be part of the overall process of promoting efficiency, effectiveness and responsiveness of government to popular needs. It should be such that would engender competition for the promotion of productive activities within the jurisdiction of the various tiers of government for development initiatives. It is clear that the way the Nigerian state has been organised has had remarkably negative effect on the opportunities and incentives for business development. It is little wonder that the informal sector has become the dominant sector of the Nigerian economy.

CHAPTER FIVE

PRESSURES FOR FURTHER DECENTRALIZATION

Pressures for further decentralisation have accompanied the agitations for political liberalisation in the 1990s by civil society groups. Currently sub-national tiers of government who are complaining of overcentralisation and revenue handicaps in their development functions are making calls for decentralisation reforms. Indeed, elected political leaders in the states of the oil producing communities and the south generally have intensified pressures for further devolution by forming organisations to push this forward. Some organisations in civil society have called for the return to the four-region structure of 1963. Others have suggested the adoption of the six geopolitical zones of the 1994 Constitutional Conference. These zones would become states under the structure envisaged while the current states will become administrative districts within the zones. Still, others have called for new structures based on well thought out yardsticks.

Three groups are of critical importance in this regard. The first is the Summit of Governors and Members of the National Assembly from the South-South Geo-Political Zone, and the Conference of Southern Governors. 33 pro-democracy civil society organizations under the umbrella of the Citizens Forum for Constitutional Reform (CFCR) comprise the second, while the nation's major socio-cultural and political organisations constitute the third.

Various socio-cultural organisations, mostly from the southern part of the country, are calling for a sovereign national conference to redefine the structure and basis of managing Nigeria. Prominent among them are: Ohaneze Ndi Igbo, Egbe Afenifere, Union of Niger Delta, the Middle Belt Forum. The only socio-cultural organisation that seems to oppose this move is the Arewa Consultative Forum in the North. The union of Niger Delta calls for greater political control of its own affairs, the right to protect its environment and economy from further degradation, the abrogation of both the Land Use Act and the Petroleum Act which removed the right of the people to the natural resources deposit in their territory. These organisations have persistently discountenanced the committee approach to constitutional review adopted by the Obasanjo led national government. They prefer a sovereign national conference (SNC).

The Citizens Forum for Constitutional Reform (CFCR) also reject the report of the Obasanjo Constitution Review Committee because, as they argue, the commission identifies key areas of contention in the Nigerian politics such as the Land Use Act, revenue allocation, derivation, resource control, devolution of powers and human rights but made no recommendations that would address the grievances underlying the issues. It believed the committee had pre-determined positions on all these issues and such positions are at variance with the memoranda received from Nigerians. It insisted that constitution making should not be a secret affair, dominated and directed by the political elite especially conservative lawyers and politicians. It averred that the constitution making process is as important as the final product. Though the forum believe that the federal system was ideal for Nigeria, it maintained that the current structure is weighed heavily in favour of the federal government and distorts the concept of true federalism. According to the forum, the 1999 Constitution violates most of the principles and minimum standards of the federal system. For instance the exclusive legislative lists contains items that cannot be justifiably regarded as exclusive matters, e.g., marriages and tourist traffic. It demanded for true federalism such that the federating units would have control and ownership of the resources in their area. They should, however, pay taxes to the federal government. The rate of such taxes would need to be determined in consultation with the states. The rate may, however, not be more than 30 per cent considering that the states would take on more spending responsibilities under true federalism. The taxes so collected should go into the Federation Account. Allocation to the federation account shall be to the federal government and the Equalization Fund to the states and local governments. Allocations from the Equalization Fund to the states shall be based on agreed criteria. These would however, include state income shortfall from the national average income, population, landmass and terrain. It maintained that the ownership of resources be vested in states.

Accordingly, it called for the setting up of a broad-based commission for the review of the 1999 Constitution to be comprised by representatives of the executive, national assembly, non governmental organizations (NGOs), ethnic nationalities, professionals, students, labour and religious groups. The envisaged Commission should be independent and should be made up of people of impeccable integrity. Significantly too, it recommended that the process be guided by inclusiveness, diversity, participation, transparency, openness, autonomy, accountability and legitimacy. The report of the Commission should be subjected to a national conference; the draft

constitution produced from it should be subjected to a referendum. (Ndujihe 2001:8-9).

The Summit of Governors and Members of the National Assembly from the South-South Geo-Political Zone are comprised largely by oil producing communities pressing for states control of resources. They want the Land Use Act and other obnoxious laws which empower the federal government to control the natural resources found in the territories of their communities abolished. They also contest the distinction between offshore and on-shore oil in the implementation of the 13 per cent derivation revenue allocation to oil-producing states by the federal government by insisting that offshore oil belongs to the communities. The federal government maintains that offshore resources belong to the federation. They have pursued this position through a series of public declarations and communiqués. A bill was tabled before the House of Representative on 9 May, 2001 by Senator Harriman of Delta State and 13 others requesting the amendment of the Petroleum Act to (i) compel oil companies to site their headquarters in their main areas of operation, (ii) vest the ownership and control of petroleum resources in the oil producing states, local governments and communities, thus reversing the spirit of the extant laws, (iii) reserve 70 per cent of the employment opportunities in the oil companies for Nigerians, (iv) encourage local businessmen and investors to participate in all aspects of oil operation, and reduce tension, poverty and violence in the oil producing communities through the provision of better living conditions (Abati 2001:10). The bill threw the house into a tempestuous session and was thrown out with an 81 'No' votes against 64 'Yes' votes along a sharp north-south divide.

The Conference of Southern Governors make both short and long term demands which include the following: that state/local government joint accounts be reactivated, and that the federal government should pay all revenue due to the local governments into the account as contained in Section 162 (5-7) of the 1999 Constitution. They also want all funds, revenues and incomes collected by the federal government on behalf of the federation to be paid into the distributable pool account (Federation Account). They insist that the federal government should stop the first line deduction system (FLDS). This is to limit the Federal Government's powers of control to the Consolidated Revenue Account (Federal Government Account) and stop the Federal Government's encroachment on the Federation Account. First Line Deduction System (FLDS) is a procedure whereby the federal government first deducts a percentage of funds credited to the federation account for the payment of debt before sharing the balance among the federal, state and local governments. This is considered unconstitutional (cf. Section 162(3) of 1999

Constitution. They also want receipt from the Education Tax Fund, proceeds of privatisation and excess crude oil funds belonging to the federation to be shared through the federation account on the agreed sharing formula. They challenge the federal government's power to unilaterally roll over balances in the federation account or in any other special account derived from the federation account to another fiscal year. They argue that such funds should revert to the federation account at the end of the year and be distributed in accordance with the approved distribution ratios. They demand a review of the current revenue allocation to the federal government in relation to its responsibilities and demand that the federal government accelerates the process of putting in place an equitable allocation formula.

They also maintained that the National Primary Education Commission (NPEC) and State Primary Education Board (SPEB) as presently run are unconstitutional and demand that NPEC be scrapped and SPEB put under the control of state governments. They call for an equitable distribution of the proceeds from VAT and appealed to the Sharia law states that have implemented to ensure that it applies to Muslims only. They call for a constitutional amendment to support the establishment of state police to improve security in Nigeria as a basis for making the country attractive to foreign investors. Although most of these demands have been issued in communiqués after each conference, arrangements are under way to table the issues at the appropriate courts.

While the road to federal restructuring seems inevitable, it is bound to be slow because of the contentious and fundamental nature of the changes demand. This contentions are real when viewed against the backdrop of the limitations set by the rigid 1999 Constitution, the centralised system of governance (the myriads of laws and constitutional provisions that grant so much powers and roles to the central government while providing little room for the lower tiers), and the entrenched interests within the central government bent on preserving the status quo.

The National Assembly in a communiqué issued after its retreat in May 2001 directed all agitators for national conference to channel all 'issues intended to be raised at such a conference' through it or through the Constitutional Review Committee set up by it. Recently it reacted to moves by Committee of Concerned Traditional Rulers and Leaders of Thought to commence the process of convening a national conference arguing that it could plunged the country into a political crisis of confidence. Meanwhile in a recent opinion survey by *The Guardian* in 24 states across the six geo-political zones between 18 and 25 May 2001, 45 percent of Nigerians indicated preference for a sovereign national conference as against an ordinary national

CHAPTER SIX

SUMMARY AND CONCLUSION

Decentralization programmes in Nigeria began from the colonial era. But they have largely taken the form of deconcentration. As a result, they have had the effect of increasing central control and reducing opportunities for citizen participation, and stultified creativity. The restraint in devolving power is attributable to the effort at regime sustenance in the face of limited state legitimacy, the problem of fragile national unity and the prevalence of military dictatorship with its centralizing tendencies.

Political regulation has been the major focus of the process as against political participation. Territorial fragmentation and internal boundary adjustment have resulted in a proliferation of states and local governments; but such levels of government have been without local power that can attract and stimulate participation. Spatial deconcentration has resulted in a bloated states sector, with minimal private sector development, and a suppression of innovative and entrepreneurial energy. The limited decentralisation and the resultant dependence of the various sub-national units on oil revenue from the centre has been one of the major reasons for the failure to diversify the economic base of the country. The competition that had characterised inter-state relations under the three and four-region systems in which derivation was a significant factor of horizontal revenue sharing gave way to political struggles for federal funds.

Further, patronage politics under authoritarian military rules culminated in the clamour for more states and localities in the bid to corner more funds from the centre. This was worsened by the de-emphasis on derivation in revenue sharing among governments at the sub-national level. Once a state is split into two its allocation from federal revenue quickly multiplies. Thus, local spending became completely separated from local resources in the name of even development across the country's geography. While it has ensured spatial distribution of physical infrastructure by multiplying capital cities of concentration, the attendant weakened state capacity had affected the quality and maintenance of these infrastructures.

Gradually sub-national governments became a source of funds for private and group enrichment. States and local governments created as largesse or patronage to sectional elites and their communities for loyalties by military dictators naturally owed their accountability to the military rulers rather than

the communities in which they exist. The result is absence of accountability and responsiveness in government.

Nigeria is paying heavily for its current ineffective and inefficient state structure: poor state of infrastructure, political instability and slow growth. Thus, further decentralization is an imperative considering the need to deflate the state, liberalize the economy and politics. But this will have to be done democratically. Such a programme should be preceded by wide spread consultation and negotiation. The aim of which is to reach a consensus on an ideological base that would determine the character of the envisaged decentralisation programme. It should also involve a clear cut distribution of the powers and functions of the various governments and clearly spelt out institutions of horizontal and vertical accountability that will enable effective and responsive governance.

The programme envisaged should be to transform the constituents of the country into relatively independent units with economically empowered governments that can carry out development programmes and attract private investment (foreign and local). In other words, it should be informed by a more practical concern about economic competitiveness, such that the country will be restructured into competing governmental units by providing room for public/private partnership in productive activities at the lower levels to enable the exploration of economic potentials of the various states. This has been made imperative by the high poverty rate in the country.

It is clear that the centralisation of resources control and the adoption of a general revenue allocation formula provide no incentive for competitiveness among the various sub-national governments. Rather, it has deepened inequality and heightened feelings of injustice in the distribution of revenue from these centralised resources. There is need to reconsider this formulae to promote competition hand in hand with the drive for equity and accountability. However, caution should be taken during the process to avoid fanning the embers of centrifugal forces. Even so, making very clear institutional arrangement for managing the process as well ensuring a realistic distribution of functions based on the principle of subsidiarity should make it predictable. Finally, Nigeria stands to gain from successful decentralisation efforts in other lands.

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