

Review

Policy of the federal character principle and conflict management in Nigerian federalism

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Federalism is seen as a formidable force for managing plural societies. In the case of Nigeria, there are two schools of thought regarding the origin of federalism. The first school argues that Britain simply imposed federalism on Nigeria for her economic and political gains. The second school believes that Nigerian federalism was determined by historical and geographical factors. Whatsoever it may be, the Nigerian federalism has undergone series of metamorphoses since its formation and has not passed most of the tests formulated by scholars of federalism. The post colonial elites to build genuine federalism through various policies have witnessed failures including the federal character principle. The paper concludes that the failure to build genuine federalism by political elites have created problems for the proper operation of the federal system in Nigeria.

Key words: Politics, equalities, governance, allocation, power-sharing.

INTRODUCTION

Federal character is one of the policies of gaining integration of diverse ethnic groups in the country. The federal character principle which was enshrined in the 1979 Constitution of Nigeria seeks to ensure appropriate linguistic, ethnic, religious and geographic diversity of the country. The introduction of federal character policies in Nigerian state is to foster unity, peace, equal ability to equal access to state resources and promote the integration of the less advantage states for better improvement and good conditions of living in the country (Bamidele and Ikulege, 2004).

David Easton's definition of politics as "the authoritative allocation of values in a society in a manner in which the political milieu does not break up" is a pointer to the inevitability of conflict in any state.

Nigeria as a state which was brought together by European surgery and suturing has always had to contend with one conflict or another from inception. Starting from the colonial period it has been bedevilled with managing ethnic and diverse conflicts. With the

attainment of independence in 1960 came a new set of conflicts bordering on governance, resource control, ethnic group domination ... to mention a few while the government brought up a welter of actions, ideas, panels and commissions to manage. However, Rothschild and Roeder (2001) stated that in Nigeria, conflict is not linear but rather complex.

The main problem of Nigeria therefore is traceable to rivalry between the rival ethnic groups in the manoeuvres for the control of power. For example, the Hausa-Fulani takes precedence in control of power with the Yoruba trailing far behind and then the Igbo group. Efforts to redress this situation have often led to the use of force because the advantaged one(s) will not willingly give up. Conversely, the youths within a group organized themselves to perform the role of liberating vanguard. The Movement for Actualization of the Sovereign State of Biafra (MASSOB) is in this category. Put differently, the driving force for the formation of MASSOB is marginalisation. It does not want the Igbo race to be part of Nigeria where marginalisation, injustice, inequality and violence remain entrenched in the national life.

The emergence of Arewa People's Congress (APC) from Hausa-Fulani group is to check-mate the activities of

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the Yoruba militant group – the Odua People’s Congress. It may be mentioned here that during the administration of President Obasanjo, he enjoyed major support from his Yoruba kinsmen. In order to hold power, the Yorubas carefully and systematically put in place a paramilitary outfit – the OPC as to consolidate power at the federal level. It was an accident of the annulment of presidential election result in 1993 assumed to be won by Chief M.K.O. Abiola, a Yoruba man. The inability to offer credible and acceptable reasons by General Babangida – a Hausa-Fulani for annulling the result led to the strong ethnic-regional tension and political crisis in Nigeria. According to OPC founders, the OPC was a child of necessity that came into being after the criminal and retrogressive annulment of the June 1993 presidential election (Ugoh, 2008). As a deterrent, the Hausa-Fulani group has equally responded with the formation of APC. According to its leader, the objective of the organisation is “safeguarding and protection of Northern interest in any part of the country where the OPC is terrorizing innocent citizens belonging to Hausa-Fulani group.

The current conflict in the Niger Delta arose in the early 1960s over tensions between the foreign oil corporations and a number of the Niger Delta’s minority ethnic groups who felt they were being exploited as well as over resource control. Thus, the area has diverse ethnic groups which the federal character is meant to tackle; but most of the community members contend that inadequate distribution of political positions, and revenue allocation led to conflicts with the government the multinational corporations and the Niger Delta indigenes. This has resulted in constant conflict in Nigeria (Ejibunu, 2007).

The ethnic unrest and conflicts of the late 1990s, coupled with a spike in the availability of small arms and other weapons, led increasingly to the militarization of the Niger Delta. This situation has been exacerbated by the formation of a welter of groups with similar goal of resource control such as the Niger Delta Peoples Volunteer Force (NDPVF) by Alhaji Asari Dokubo in 2003, Niger Delta Volunteer Force (NDVF) by Tom Ateke (Human Rights Watch, 1999).

Indeed many of the divided parts in Nigeria have experienced some form of violent conflict in the recent past. It is therefore not surprising that managing diversity with the intent of containing latent conflict has been an important aspect of statecraft in Nigeria (Mustapha and Abdul, 1999), even if the results have not always been as successful as might have been wished.

This paper is aimed at examining the policy as its effects the federal character principle in Nigeria. The paper therefore will explore the ethno-regional inequalities, governance and conflict management. In its main it will focus on political economic and social inequalities among the diverse groups and how successive governments have tried to manage the crises situation.

The paper has been divided further to examine the policy as a concept. It will highlight the federal structure of Nigeria, also analyse the federal character principle and its commission and come up with the effectiveness and limitations of the policy.

CONCEPTUAL FRAMEWORK

Public policy is generally seen as a complex issue. It has been defined by various scholars at one time or the other. According to Dye (1972), public policy is what government chooses to do or not to do. This explanation has been criticised on the premise that it did not take cognizance of that fact that there may be a difference between what the government decide to do and what they actually do. The government, for instance, may enact a policy to up-grade road infrastructure, throughout the country. This is an act decided upon by the government. However, there may be a gap between the decision of the government and actual implementation. Besides; there is something the governments do that is not considered policies in actual sense, even though they are government actions.

In an attempt to capture most governments’ actions as public policy, Richard Rose has suggested that policy be considered as ‘a long series of more-or-less related activities and their consequences for those concerned rather than a discrete decision’. This definition though ambiguous, connotes the notion that policy is a course, or pattern of activity and not simply a decision to do something. Taking into account certain problems raised by some definitions of public policy, Anderson (1984) defined the concept of public policy as a purposive course of action followed by an actor or set of actors in dealing with a problem, or matter of concern. This definition focuses on the actual concluded action of government rather than what is proposed or intended. Some scholars refer to public policy as all that goes on from the moment the need for a policy was muted and articulated to articulate to its formations, enactment, implementation and performance or impact. It involves a complex web of activities, interactions, techniques and strategies involving several persons, groups and agencies (Ikelegbe, 1996). Dror (1971) defined public policy as a major guideline for action. According to him, public policy in most cases, lays down general directives, rather than detailed instructions on the main lines of action to be followed.

In most African countries, this is an activity that is essentially monopolised by the civil service. The civil service monopolises policy initiation activities because of the available resources at its disposal, the expertise it can mobilise, the necessary information and data which it can draw upon for the articulation of the policy and an awareness of societal needs and demands through

various agencies. Political scientists like Harold Lasswell and Abraham Kaplan defined policy as a projected program of goals, values and practices and Carl Friedrich says, it is essential for the policy concept that there be a goal, objective or purpose, cited in Dye (1998). These definitions imply a difference between specific government actions and an overall program of action towards a given goal. However, the problem raised in insisting that government actions must have goals in order to be labelled 'policy' is that we can never be sure whether or not a particular action has a goal or if it does, what that goal is. Perhaps, most people assume that if a government chooses to do something, there must be a goal, objective or purpose. In reality, however, people observe that government chooses not to do anything. In this case, it is not a policy. Policy involves what government actually do, not just what they intend to do or what they say they are going to do. For example, if the National Assembly enacts a law directing employers to pay no less than an approved minimum wage but nothing is done to enforce the law and subsequently little change occurs in economic behaviour, it seems reasonable to contend that public policy actually takes the form of non-regulation of wages (Anderson, 1984). Generally, governments at all levels in Nigeria have been increasingly active in developing public policies. The outcome is a large volume of laws that flows from the national, state and local legislative bodies. Despite this, there has been series of policy failures in the country. In fact, policy failure in Nigeria is linked to the inability of the government to identify the needs of its citizens before initiating the correct policies. A close look at the statement indicates that the inability of any government to successfully manage its policy process, encounters grave challenges of development. The present work therefore will examine the various public policies and their probable factors for failure in Nigeria. In other words, the level of development across the country is deplorable and an outcry which need urgent attention.

Policy of the federal character principle in Nigeria

Ethno-regional Inequalities, governance and conflict

Nigeria's population, estimated at 140 million (National Population Commission, 2005), is made up between 250 and 400 ethnic groups depending on the criteria used for defining the ethnic group. These ethnic groups are broadly divided into ethnic 'majorities' and ethnic 'minorities'. The numerically and politically major ethnic groups are the Hausa-Fulani of the north, the Yoruba of the southwest, and the Igbo of the southeast (Afolayan, 1983). In 1962 to 1963 census, the population of Nigeria was 55,653,821. This census had the Hausa-Fulani dominating the North with 29.9 million people (that is, 45.8%) while the figures for Igbos of the East was put at

12.3 million (that is, 25.5%). The western region at this period had been divided into two regions, the Western and the Mid-West. While the western region dominated by the Yorubas was inhabited by 10.2 million people (that is, 19.2%) the Mid-west comprising Edo, Ika Ibo, Urhobo, Itsekiri, Ijaw, etc. minority groups had 2.5 million. Lagos had (675,352 inhabitants amounting to 9.5% of the country's total population (Ugoh, 2005).

The numerical and hegemonic strength of these three ethnic groups within the Nigerian federation has meant that Nigeria has a tripodal ethnic structure with each of the three majority ethnic groups constituting a pole in the competition for political and economic resources (Jibril, 1991). Tripodal ethnic structures are inherently unstable; especially compared to countries like Tanzania which has a fragmented ethnic structure. In Tanzania, no ethnic group is more than 12% of the population (Nyang and Julius, 2006), so alliance building is the norm in politics. By contrast, ethnic politics in tripodal Nigeria is often conflictual as each of the three hegemonic groups tries to build up sufficient alliances to ensure its preponderance in government, or to prevent its being marginalized by competing alliances.

The interplay between communal identities and administrative boundaries have led to 8 major cleavages in Nigerian political life (Mustapha, 1986), the most important of which are: the cleavages between the three majority groups on the one hand and the 350-odd minority ethnic groups on the other; between the north and southern (1953 census and 2005 census); between the 36 states of the federation and the 6 zones – three in the north and three in the south – into which they are grouped; and finally, between different religious affiliations. Some of these cleavages overlap; for example, the southeast zone overlaps with Igbo ethnicity and Christian religious affiliation while the northwest zone coincides with Hausa-Fulani ethnicity and the Islamic faith.

The ethnic, regional, and religious cleavages in Nigerian society are made more problematic by systematic and overlapping patterns of inequalities that correspond to the cleavages. These inequalities are driven by a complex range of factors, including history, geography, cultural orientation, religious affiliation, natural resource endowments, current government policies, and past colonial policies. The most important inequalities are educational, economic, social, political, and bureaucratic (Mustapha, 2009).

Starting from the colonial period, there has been a structurally embedded pattern of educational inequalities which persists to this day. In 2000, for instance, the northeast zone, with 14% of the national population in the 2005 census, had only 4% of the university admissions, while the southeast, with 12% of the population, had 39% of the university places. Systematically, the southern zones and ethnicities have tended to have better access to educational resources (universities admission). These long-standing patterns of educational inequalities have

been reproduced in the inequalities in manpower and human capital development across the country; in 2003, it was claimed that the northern zones with 53% of the population had only 10% of engineers, 15% of professors, 10% of architects, 25% of lawyers, 8% of bank executives, and less than 2% of insurance practitioners (Adamu, 2003).

Economic inequalities are another feature of Nigerian national life. For example, in 1986 to 1990, 70% of the registered companies in Nigeria were located in the southwest, with 16% in the three northern zones and 14% in the two other southern zones (Hamalai, 1994). By 2001, 46% of the industries located in the northern zones had closed down as a result of infrastructural and macro-economic difficulties; deindustrialisation, associated with economic liberalisation, has disproportionately affected the north (Adamu, 2003). Another index of economic inequality is preponderance of Lagos in banking operations. Lagos accounted for 48% of all deposits and 69.96% of all loans in 2006, while the three northern zones combined accounted for only 10.75% of deposits and 8.5% of loans (Soludo, 2007).

Structurally embedded social inequalities correspond to the educational and economic inequalities (Stewart, 2008). Within the context of widespread national poverty, it can be rightly argued that extreme poverty and ill-being are a distinctly northern phenomenon. The ten poorest states are in the northern zones, while the ten with the lowest poverty levels are in the southern zones (Federal Republic of Nigeria, 2001). Central Bank of Nigeria data suggest that between 1980 and 2004, poverty increased from 13 to 35% of the population of the south-south, 13 to 27% in the south-east, and 13 to 43% in the south-west. Over the same period, in the north-central, poverty ballooned from 35% of the population to 72% in 2004. In the north-east, it went from 36 to 72%, while in the north-west the trend was from 38 to 71% (Soludo, 2007). Access to social amenities like education, sanitation, and health services closely correspond to the poverty trends. For example, in 1995, while 29% of new born in the south-west were not immunised, the corresponding figure for the north-west was 66%. In the north-west only 25% of pregnant women used clinics compared with 85% in the south-east (FOS, 1995/1996). Similarly, the maternal mortality rate in the north-east is 93.9% higher than the level in the south-west (Galadanchi, 2007). In fact, these systematic and overlapping inequalities which made Nigerians born into different ethno-regional groups to expect very different qualities of life and thus, materially undermining the basis for a common citizenship.

As expected, the combination of: (a) a tripod ethnic structure, (b) deep cleavages and (c) systematic educational, economic, and social inequalities have led to a conflict-ridden political system within which different ethno-regional blocs struggle for advantage. As a result, Nigeria is also characterised by political and bureaucratic

inequalities. Nigeria never developed a common nationalist movement or a single nationalist icon like Nkrumah in Ghana or Mandela in South Africa. Instead, Nigerian nationalists kept one eye on the British colonialists and the other on their ethnic and regional competitors from other parts of the divided country. According to Kirk-Greene:

Fear has been constant in every tension and confrontation in political Nigeria. Not the physical fear of violence, not the spiritual fear of retribution, but the psychological fear of discrimination, of domination. It is the fear of not getting one's fair share, one's dessert (Kirk-Greene, 1975).

This constant fear of being short-changed by competing alliances has led to what some have referred to as 'aggressive ethnicity' (O'Connell, 1967). The 1945 period had witnessed a scramble for bureaucratic appointments along with many confrontations over the ethno-regional composition of various government agencies. The North was deeply suspicious of southern domination, even of the Northern regional bureaucracy, and thereby developed a strategy of political containment. To protect themselves in the North, Northern politicians promoted the 'Northernisation' policy in the 1950s, even when official colonial policy was 'Nigerianisation' (Kwanashie, 2002). At the Federal level, northern politicians sought to inject northern civil servants into the Federal bureaucracy, usually at the higher levels. At the same time, there was intense conflict and competition between Igbo and Yoruba elites for access to various federal institutions. While Azikiwe asserted that 'the God of Africa has especially created the Ibo Nation to lead the children of Africa from the bondage of the ages ...' (Ayandele, 1974), a Yoruba politician accused the Igbo of 'striving might and main to penetrate the Western (Yoruba) economy thereby exploiting our wealth and riches for the benefit of themselves' (Post and Vickers, 1973). In federal institutions and agencies, accusations and counter-accusations of nepotism and 'tribalism' between the two groups were rampant. Nigeria's post-colonial experience is clear proof that 'social cleavage has bureaucratic consequences'. The minority ethnicities were caught in the interstices of the majority scramble for bureaucratic dominance.

Bureaucratic inequalities have generally favoured southern zones and the ethnic groups as they are over-represented in the directorate and technocratic cadres of the federal bureaucracy, while executive inequalities have tended to favour the northern zones and ethnicities who tended to dominate the federal cabinet (Mustapha, 2009). However, the legislative arm has tended to be more balanced in composition for most years possibly because of the more direct nature of representation implicit in the electoral process and constituency

delineation. The *judicial* arm was, up to the mid 1980s, largely dominated by foreigners and southerners. Conflict and suspicion over these skewed distribution of educational, economic, social, bureaucratic, and political resources contributed in no small measure to the eventual collapse of the First Republic in 1966, the recourse to military rule, and the Civil War of 1967 to 1970, during which over one million people died. From 1966, the military tried to reform the political and bureaucratic systems by making them more inclusive. These reforms ultimately led to the Federal Character Principle (FCP).

THE FEDERAL CHARACTER PRINCIPLE (FCP) AND THE FEDERAL CHARACTER COMMISSION (FCC)

A major task of governance is to gain social acceptance of policies with minimum resistance from the governed. No matter how well conceived, public policy needs social support and 'one of the oldest methods of securing such support is to draw a wide segment of society into the government to convey and to merchandise a policy' (Krislor, 1974). Complex modern bureaucracies therefore need the legitimization of representativeness. This need for the 'administrative penetration' of society through representativeness is even more acute in countries like Nigeria where bureaucrats exercise enormous discretionary powers. Though regional quotas were introduced for military recruitment in the 1950s, the quest for reforms after 1966 has meant the entrenchment of affirmative action within Nigeria's political and constitutional systems. Affirmative action, that is, 'planning and acting to end the absence of certain kinds of people – those who belong to groups that have been subordinated or left out – from certain jobs and schools' (Bergman, 1996) is the key premise of the FCP. Such affirmative action is often defended on three grounds:

- 1) To offset past discrimination
- 2) To counteract present unfairness
- 3) To achieve future equality.

The first is often referred to as 'compensation', the second 'a level playing field and the third diversity'. In Nigeria, all three motives for affirmative action were implied in the drive for reforms. Alleged victims of nepotism and 'tribalism' wanted action to correct past discrimination; champions of ethno-regional interest wanted to counteract present unfairness; while ardent nationalists wanted the stability and effectiveness that would result from the promotion of diversity.

There are two distinct waves of reforms, culminating in the creation of the FCC. The first wave of reforms started in 1967 and included the dismantling the old regional

institutional framework and replacing them with smaller states. The objectives were to:

- a) Deny regional elites the institutional framework for ethno-regional politics,
- b) Create administrative cleavages within ethnic majorities,
- c) Give administrative autonomy to ethnic minorities, and
- d) Tilt the balance of power away from the regions in the direction of the centre.

Another set of reforms in this period sought the deliberate creation of a national – as opposed to the erstwhile regional – political dynamic, again tilting the centre of gravity away from the regions. This was achieved through the deliberate dismantling of relics of colonial-era native authority power in the north and the concerted effort to defeat Biafran secession. Finally, there was the introduction of informal quotas as the basis for representation within the federal cabinet and in the admission process in federal educational institutions.

The second wave of reforms was triggered by constitutional debates about the nature of the post-military political settlement. They started in 1979 with the introduction of a majoritarian presidency that must:

- a) Get a national majority of votes cast; and
- b) Cross a threshold of not less than 25% of votes cast in at least two-thirds of all the states.

There was also the introduction of pan-ethnic rules for the formation of political parties, and the constitutional entrenchment of consociational power-sharing rules (federal character principle). These were all institutional designs aimed at forcing politicians out of their ethno-regional cocoons towards the promotion of diversity. It is this reform process that led ultimately to the creation of the Federal Character Commission (1996) to give administrative teeth to the FCP. The question here is has the FCC lived up to the promise of fighting discrimination, and promoting fairness and diversity?

Emphasis on balanced representation and power sharing was given formal constitutional backing in 1979 under the Federal Character Principle. The drafters of the constitution were of the opinion that the fear of domination or exclusion were salient aspects of Nigerian politics, and that it was essential to have specific provisions to ensure that there is no predominance of persons from a few states or from a few ethnic or other sectional groups in the composition of the government and its agencies (CDC, 1977). Accordingly, Section 14, sub-section 3 of the 1979 Constitution stated:

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 manner as to reflect 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 or other sectional groups in that government or in any of its agencies (S. 14(3), 1979, Maduabum 2006: 212).

This section of the constitution was non-justiciable. However, other justiciable sections which reiterated the Federal Character principle were:

- a) Section 135, which stipulated that the president must appoint at least one minister from among the indigenes of each state;
- b) Section 157, which compelled the president to take due regard of the Federal Character of Nigeria in appointing persons to such offices as the secretary to the federal government, ambassadors, permanent secretaries of Federal ministries, and the personal staff of the president;
- c) Section 197 (2), which stipulated that the officer corps and the other ranks of the armed forces must reflect the Federal Character of Nigeria; and
- d) Section 199 which called for the establishment of a body to ensure that the composition of the armed forces does comply with the federal character principle. The federal character provisions have been incorporated into all subsequent Nigerian constitutions in one form or the other.

In section 150 of the 1989 Constitution, many new institutions, such as the governing bodies of state-owned companies and the governing councils of the universities, were brought under the purview of the Federal Character principle. The National Constitutional Conference convened by General Abacha in June 1994 went furthest in promoting consociational power-sharing in Nigeria (Ekwueme, 2005) and also came to the conclusion that a Federal Character Commission was to be established, to 'monitor and enforce federal character application and proportional representation'.

By the time the FCC was established by Decree No. 34 Of 1996, its powers, including the powers (section 4, subsection 1c) to prosecute heads of ministries and parastatals for failing to carry out its instructions, were enormous. Actually, the scope of its operations had been extended beyond governmental bureaucracies, to address the inequalities in social services and infrastructural development, along with the inequalities in the private sector (section 4, subsections 1di and 1dii). It also had powers: (a) to work out a quota formula for the redistribution of jobs; and (b) to establish, by administrative fiat, the principle of proportionality within the Federal Civil Service (FCS) (FCC: 1996). Though it was argued that the Commission 'must not be used as a lever to elevate the incompetent' or associated 'with the lowering of standards' (*Ibid.*), it nevertheless

established that within the FCS:

The indigenes of any state shall not constitute less than 2.5% or more than 2% of the total positions available including junior staff at Head office (*Ibid.*).

Where there were only two posts, one must go to the north and the second to the south; where there are six posts one must go to each of the 6 geopolitical zones of the country. In short, the FCC leaned heavily towards one model – the quota model – out of four potential models of affirmative action:

- 1) Showing preference among equally qualified candidates (the 'tiebreaking' model), or
- 2) Preferring a strong candidate to an even stronger one (the 'plus factor' model), or
- 3) Preferring a merely qualified candidate to a strongly qualified candidate (the 'trumping' model), or
- 4) Cancelling a search unless a qualified candidate of the preferred sort is available (the 'quota' model) (Cahn, 2002).

Where a state cannot find a candidate to fill its slot, that fact is officially noted and a candidate from another state in the same zone should be sought. Indigenes of a zone should constitute a minimum of 15% and a maximum of 18% of the senior level positions in each establishment. At the level of the 36 state bureaucracies, senatorial districts, local government areas and wards are the functional units used to distribute posts. In theory, under no circumstance is an unqualified candidate to be short-listed; 'no institution wants to employ someone who lacks merit' (Bowen and Bok, 2002).

The powers of the commission can be summarised as:

- a) Working out a formula for sharing posts and services;
- b) Monitoring compliance;
- c) Enforcement of compliance through the courts;
- d) Demanding and receiving data on staffing; and
- e) Instituting investigations. It is an offence in law to forward false information to the FCC or withhold information from it, or supply it with incomplete information.

Along with these procedural offences is the substantive offence of failure to apply the federal character principle. More recently, the FCC has been campaigning for new powers so that it can cancel any faulty recruitment exercise and order a fresh one. In case of repeated failure, the FCC is seeking powers to carry out the recruitment itself and surcharge the establishment for the exercise. Currently, the FCC cannot initiate legal actions without the authorization of the Attorney-General. It is seeking new powers to allow it to initiate legal action without recourse to the Attorney-General's office.

Despite these constitutional powers, the reality of the political muscle of the FCC is more modest. The FCC is supposed to be an independent commission recognised by the constitution. In reality, it functions as a presidential commission under the Presidency. The President appoints members of the commission, subject to the ratification of the Senate. The President also appoints the Executive Chairman and the Secretary; where the Chairman comes from the north, the Secretary must come from the south, and vice versa. The legislature has oversight functions with regards to the FCC, with both the Senate and the House of Representatives having committees on federal character. Sometimes, these committees receive complaints, hold public sittings and investigate cases, virtually duplicating some of the functions of the FCC. In 2002/2003, the FCC had about 303 staff in the Abuja headquarters and another 230 staff in the state offices.

With 37 full-time commissioners who spend 3 weeks of each month in Abuja and the last week in the states they represent, the FCC faces huge operational bills. Funding is a major constraint, particularly, for the monitoring and investigation of parastatals outside Abuja. There have been calls to reform the FCC by appointing one commissioner for each of the six zones, and one for the Federal Capital Territory, Abuja, thereby reducing the commissioners from 37 to 7. The law setting up the FCC is silent on the functions of the commissioners and they seem to be more of a representative body. The states have state coordinators, monitoring officers and statisticians. These state officers send annual reports on the composition of their state bureaucracies to Abuja.

The FCC secretariat is divided into 6 departments (legal and enforcement, finance and accounts, planning, research and statistics, administration and supplies, state operations, personnel and training). Staffing within these departments must conform strictly to the affirmative action quotas set up by the FCC (Krislor, 1974). There are 12 functional committees that monitor different parts of the federal bureaucracy. The committees have four basic operational functions:

- 1) The sections of the bureaucracy under their surveillance;
- 2) Taking steps to avoid breaches of FCC rules through dialogue with chief executives of federal establishment at all levels;
- 3) Investigating alleged breaches;
- 4) Recommending remedial/punitive actions to the Commission in case of proven breaches.

A legal officer is attached to each committee. These legal officers are proactive in guiding the committees in their monitoring functions, and in reigning in and educating any errant chief executive of a parastatal. The 12 committees monitor a total of 470 agencies and

parastatals; the number of parastatals per committee ranged from 69 for the health committee to 21 for the Defence and Police Affairs committee.

FCC rules stipulate that job advertisements must be inserted in two major national dailies, one widely read in the south, and the other in the north. Applicants must also be given at least six weeks to reply, so that applicants in tucked-away corners of the country are not disadvantaged. Monitoring involves the constant surveillance of newspapers to keep an eye on all recruiting activities. Increasing reliance on web-based applications and the use of human resources companies for recruitment have made it more difficult for the FCC to monitor recruitment processes in many parastatals. The FCC also monitors political appointments. List of political appointees are often sent to the FCC for analysis.

Where recruitments are to take place and the FCC suspects that its rules are not being respected, intervention is initiated. The objective of intervention is to ward off a potential breach of the rules. Chief Executives of institutions are also regularly invited to the FCC to educate them about their legal obligations and to draw their attention to priority states for consideration in future appointments. In some instances, intervention was in the form of investigations launched after complaints by aggrieved parties, be they individuals or communities. For example, the Egbema General Assembly, on behalf of the Ijaw of Egbema Kingdom in Warri North Local Government Council petitioned the FCC through the Presidency:

They claimed that though the council was made up of 20 wards with the Itsekiri having 11 wards and the Ijaw nine wards, the entire 413 workers of the council were Itsekiri. According to them, of the 41 public officers (political appointees) available to the council area from the three tiers of government, the Itsekiri occupy 35 and the Ijaw six. They stated that the trend is not only contrary to the mandatory provisions of Section 14(3) and (4) of the 1999 Constitution, but that it was a serious threat to 'peace, order and good governance in the area' (Federal Character Panel, 2005).

Enforcement of the rules is a very tricky aspect of the FCC's work. Though the FCC has both constitutional and legal backing, and penalties are clearly stated for the breach of its formula, the FCC is very reluctant to go to court. This is partly due to limited legal and financial resources, but is also due to the highly politically charged nature of its work. Emphasis is placed on the prevention of breaches and the admonition of erring officials, with the implied threat of stiffer action if heed is not taken.

A major and important function of the FCC is the collection of fairly reliable data on the composition of the core federal bureaucracy. The FCC tries to cover all 44 line ministries and the 470 agencies and parastatals.

FCC mandate includes all companies where government has dominant shares.

Most of these companies have, however, been very reluctant to cooperate. The statistical division of the FCC monitors the composition of different institutions, categorizing the states into: not represented (NR), 0 percent; grossly under represented (GUR), under 1.5%; under represented (UR), between 1.5 and 2.4%; adequately represented (AR), between 2.5 and 3%; over represented (OR), between 3.1 and 3.9%; and grossly over represented (GOR), above 4%.

Effectiveness of federal character

The FCP/FCC has been the subject of many attacks in Nigeria. Some assert that 'Federal Character is tribal character' (Oyovbaire, 1983), while others condemned it as 'geographical apartheid' (Suberu, 2001). The major thrust of this criticism is that the federal character principle is inherently discriminatory and counter-productive. Such criticisms often come from groups and individuals whose prior advantages have been undermined by affirmative action. Admittedly, there is much to criticize about the implementation of affirmative action in Nigeria as shown in this paper. But the criticisms referred to above target policy itself. However, by advancing no alternative policy for overcoming the in-built ethno-regional inequalities in the country, such criticisms ignore a major source of political instability and discord in the country.

Apart from this, the work of the FCC has problem of using arithmetic quotas. While quotas are easily understood and implemented, they nevertheless shift emphasis to the group and geographical zone represented, and away from the relative qualifications of the candidates under consideration. The individual establishments handle all technical questions about the competence of candidates and the shortlisting of candidates. However the FCC expects the establishments to take federal character into account even at this early stage of the recruitment process, sorting the applicants by state of origin (Krislor, 1974). What is often lacking in practice, however, is any effort to establish the most qualified candidate *within* each state, and to systematically relate the qualifications of applicants across states so as to monitor and manage the tensions between equity and merit. The FCC quota formula does not therefore ensure that the best candidate from a state is chosen. Concern for the relative qualifications of the candidates would have moved away from the pure 'quota model' of affirmative action and more towards the 'trumping model' – preferring a merely qualified candidate to a strong qualified candidate. The 'trumping model' would require that only the best candidates from the states and zones are considered, and that preferences across states are also monitored.

The FCC has also been criticized for ignoring ethnicity and religion, two critical cleavages in Nigeria; by law its focus is on states and geographical zones. It is technically within FCC rules for a Yoruba from the southwest zone to be a director in an establishment, with another Yoruba from the north-central zone as another director in the same establishment. Meanwhile, many minority ethnic groups remain unrepresented. Similarly, it is possible to have three Hausa-Fulani directors in an establishment from the three northern zones. This means that the silence on ethnicity works out in favour of the majority ethnic groups spread across states and zones, and against the ethnic minorities, most of whom are contained in particular states or zones; the Human Rights Committee of the 2005 National Political Reforms Conference argued that the FCC should be changed to an 'Equal Opportunities Commission' because 'the constitution and operations of the present FCC was lopsided and strongly was in favour of the major ethnic groups in the country' (NDCCGEC, 2005). Similarly, the neglect of religious affiliation can sometimes cause controversy as a pamphlet released at a meeting of the Nigerian Supreme Council for Islamic Affairs in March 2005 made clear:

When Obasanjo constituted the cabinet for his second term in office, he appointed 42 ministers, comprising 16 Moslems (38.1%) and 26 Christians (61.9%). In the whole of Kwara, Kogi, south-west, South-East and South-South, there is not a single Moslem (minister) (Jokolo, 2005).

The simple arithmetic quota is therefore deficient in not taking into consideration, important variables like ethnicity, religion and relative merit. It also fails to take into account issues such as the relative population size of states, the number of ethnic groups in a state, the ethnic structure of the state, or the level of educational attainment by various groups within the state. It seeks to advance equity but not proportionality. Moving beyond the comfort zone of the arithmetic quota is a major challenge facing the FCC.

The FCC has faced a credibility crisis on account of its poor showing so far. Some, like the Egbema Ijaw community referred to earlier have accused the FCC of 'dereliction of duty', in the face of their chronic under-representation in the local government bureaucracy. Others expressed frustration that the FCC failed to stop ethnic favouritism under President Obasanjo who was accused of the 'Yorubalisation' (Monguno, 2005) of the federal bureaucracy during his tenure. Similarly, President Yar Adua since 2007 has also faced similar accusations of favouring Hausa-Fulani appointees from the far north (Afenifere, 2009).

It has also been argued that FCC rules do not address the discrimination in the sensitivity and clout of particular offices, leading to the domination of particular important offices by some groups, while others are consigned to inferior portfolios. Unlike the FCC, the rules of the ruling

Peoples' Democratic Party (PDP) divided public offices into 4 categories of importance. For his part, the influential Igbo politician, Chief Emmanuel Iwuanyanwu, 'took a swipe at the activities of the Federal Character commission' (Iwuanyanwu, 2005), challenging it to ensure that the federal character principle was extended to the allocation of federal projects.

It should apply also (sic) on projects that means if you award a contract for a dam project costing ₦50 billion or so in a zone, you must compensate other zones with other projects costing about the same amount. So we want equity in the distribution of resources (Iwuanyanwu, 2005).

Iwuanyanwu's intervention touches on the sore point of discretionary; and some would say, discriminatory—allocation of federal resources, projects and grants, outside of the normal federal/state revenue sharing process, which has characterised fiscal federalism in Nigeria, particularly since the military dictatorships of the 1980s.

Based on the available evidence, the FCP/FCC can be said to be relatively ineffective in achieving their stated objectives. However, coming to such a snapshot conclusion ignores the important fact that both policies are best understood as processes, with significant potential for mid to long term consequences.

The FCC has failed on a number of important points, and it is fair to demand that it should try harder. It has, however, a number of important achievements which should also be taken into consideration.

Firstly, it has succeeded in creating new norms and procedure for the nonviolent resolution of conflicts over ethnic and regional access; the protesting Egbema Ijaw did not have to resort to violence to get their concerns heard. Instead, the FCC provided an impartial and professional platform. Trusted by all through which the complaints can be addressed. In a country in which trust in democratic institutions is low and resource to violence common (Adegoye, 2005), this is an important achievement.

Secondly, the FCC is increasingly generating the data through which the nagging national problem of representation can be objectively assessed, monitored, and pronounced, upon, away from the screaming headlines of ethnic entrepreneurs. It is a credit to its professionalism that we know as much we now know about trends within the federal bureaucracies. Previously, we would have been paralysed by the competing partisan claims of self-interested newspaper editors. Importantly, the pervasive fear of 'marginalisation' can now be calmed by a rational engagement with FCC data. Individuals and communities now go to the FCC both for concrete data, and for remedies; more openness, computerisation, and transparency will

increase the level of trust and this calming effect of the FCC. Thirdly, FCC has positively changed the culture and norms of bureaucratic recruitment in Nigeria towards inclusive diversity. Gone are the days when a chairperson of a public institution can surround himself or herself with co-ethnics with reckless impunity. Chief Executives are now more conscious of their obligation to strive for ethnic diversity, if not balance. The full impact of are appointed (Adegoye, 2005). In this regard, the FCC has laid an important and valuable foundation.

On balance, the FCC has had a positive impact on Nigerian ethno-regional politics even as it has failed to deliver representativeness or proportionality. Nigerian change will only be felt many decades down the line, when the current ageing bureaucrats retire and new ones political history is full of the antagonism and hostility generated by real or imagined 'domination' felt by groups not well represented in different spheres of national life. These have not disappeared, but new, more constructive channels are being opened up for their resolution. This is not to suggest that all is well with the FCC or the wider political calculus of Federal Character within which it operates. There is the urgent need to address the issues raised in the criticism of the FCC, but the objective should be to find ways of improving its performance in the short to medium term. Importantly, critics of affirmative action in Nigeria have not advanced any alternative strategy for dealing with the inbuilt asymmetries within important institutions in the country.

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