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# Intergovernmental Relations and Federalism in Nigeria: The Need for a Legislative Bill

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**Abstract:** *Nigeria is a federal Republic made up of thirty six States and a Federal Capital Territory (Abuja), with the advent of the 1979 and 1999 Constitutions, there has been a profound change in the practice of federalism in the country which has called into question whether Nigeria is indeed a federation. This question has been further accentuated by recent damning report of the National intelligence council of the United States Government which forecasted that by the year 2020, Nigeria might cease to exist as a nation-state. The level of government that should take responsibility for such issues as federal character, power sharing, revenue allocation, maintenance of public order, fiscal federalism, judiciary, local government, etc. are the major centripetal and centrifugal forces that have threatened the consolidation of the Nigeria federation.*

**Keywords:** *Intergoverntal Relations, Federalism, Legislature, Bill.*

## INTRODUCTION

Intergovernmental Relations (IGR) refers to a concept which defines the series of events and activities or interactions that happens between or among the different tiers or organs of government within a country. It also encompasses the various interactions and permutations of exchange among them (Lawson, 2011). For several years, events in Nigeria's federation have indicated the over-dominance of the federal government in relation to IGR, which has be seen as inimical, the extant structure and institutions such as the Revenue Allocation Mobilization and Fiscal Commission (RAMFC), etc. for intergovernmental policy coordination seemed very weak and need to be improved and strengthened. In drafting the Constitution, they had less than six months (November 11<sup>th</sup>, 1998 - May 5<sup>th</sup>, 1999) which was too short for a country traumatized and still reeling in uncertainty and fear following the aversive long years of military regime. The subsequent promulgation of Decree No: 24 titled "Constitution of the Federal Republic of Nigeria (Promulgation) Decree 1999" on May 5<sup>th</sup>, 1999 ushered in the present Nigerian Constitution. The Constitution reserved the requirements of the 1979 Constitution with some amendments (Amah, 2017). Therefore, it becomes imperative for adequate and proper provision for a true federalism and intergovernmental relations in Nigeria.

A major challenge facing Nigeria's federalism in its over four decades of independence is how to guarantee the exercise of true federalism. True federalism has been adjudged as a condition precedent for the survival of the nation as a deliberate union of nationalities and autonomous communities. The persisting challenges in Nigeria's federalism include among others the issue of resources control, local government, a tolerable revenue allocation sharing formula (i.e. fiscal federalism). A comparative examination of other federal states such as the United States, Canada, Belgium and India shows that they have successfully collapsed their various ethnic nationalities into a fully integrated federal structure. Consequently, the agitations for ethnic representations in Federal establishments are nearly absent. In Nigeria, the reverse is the case. This is what this paper seeks to achieve. Nigeria has suffered series of democratic interruptions from the military. This has created a rope-sided relations and federal arrangement (akin to unitary system of government) in the country. The structural and institutional inequity in the Nigerian federation and the recurrent tension for an autonomous national conference to address the issues of fiscal federalism, state and local government creation, etc. has inundated the entire political space. This to experts call for critical devotion to the subject matter in order to the save the unity of Nigeria.

The main target of this paper is to proffer solution on the present state of the nation's federalism and intergovernmental relations through legislative and institutional mechanisms. This is because the existence of the Nigeria as a union of diverse nationalities, autonomous communities and religion is dependent on the practice of true federalism and hitch-free intergovernmental relations.

#### **Summary of the Provisions of the Bill**

Structurally, the proposed Bill has a total of 18 Sections divided into 5 parts. Parts 1 to 3 deal with the establishment of the proposed Commission, composition, qualification, etc. of members of the proposed Commission, tenure of office of membership of the Commission's board and cessation of membership. They also deal with the powers, functions, independence, the Secretariat and Staff of the Commission as well as pension, etc. Parts 4 & 5 provide for the fund of the Commission and its application; they are also concerned with the annual report of the Commission, interpretation and citation of the Bill.

#### **Constitutional Issues around the Bill**

In Nigeria's federal system, the manifestations of intergovernmental relations occur in power relations, revenue allocation, and provision of certain welfare and infrastructural facilities. In terms of distribution of power, the federal government has matters contained in Exclusive Legislative List allocated to it (Second Schedule Part 1) (Federal Republic of Nigeria, 1999); also, both the Centre and state governments have matters allocated to them in the Concurrent Legislative List (Second Schedule, Part II) (Onimode, 1999; Miguel, 1995), exclusive functions of a local government council and the participatory state/local government functions are in the Fourth Schedule. However, in the event of a conflict between the two tiers (federal and state) laws, that of the former takes preference (Section 4(5)) (FGN, 1999 Constitution); same applies where the state executive action conflicts with that of the federal that of the latter supersedes (Section 5(3)) (FGN, 1999 Constitution). This by implication explains why the federal government can intervene in any matter of public importance if the need arises. Apparently, the constitutional provisions regarding to power relations are not likely to improve IGR as powers are much concentrated at the centre in such a manner capable of turning the states and by extension, the local governments to political simpletons always prostrating for political favours from the centre as 66 specific and 2 omnibus items virtually covering the entire range of public affairs are placed in the Exclusive Legislative List.

In relation to revenue sharing arrangement, the 1999 Constitution stipulates an arrangement that allows for statutory allocation of public revenue from the Federation Account held at the centre to states and local governments (Section 7(6)); 162(l) - (8) of the 1999 Constitution FGN). The federation may also give grants to a state to supplement the revenue of that state with the prescription of the National Assembly; this is called the Federal grants-in-aid (Section 164(1) (FGN, 1999 Constitution). This fiscal dominance of the federal government is a very great challenge to fiscal federalism. This could be referred to as fiscal unitarism and it

can be adduced to the unified military structure where authority and power are centralized at the top and command and instruction are dictated from top to bottom. This manifested recently in the war of words between Northern Governors and their Southern counterparts over what the North termed injustice in revenue allocation (Onimode, 1999). The case of Lagos State Government versus Federal Government (under Obasanjo) over the creation of more local governments by the Tinubu-led Lagos Government buttresses the enormity of the powers allotted to the Federal Government of Nigeria. An estimated N20 billion (approximately USD 153 million) belonging to Lagos State Government from the Federation Account was withheld for years; it was a heated legal battle that was later resolved by the Supreme Court.

### **Cross Country Comparism**

Heterogeneous federal states such as the United States, has the American Council on Intergovernmental Relations, which monitors the workings of the Federal - State - Local intergovernmental partnership; tracks emerging and ongoing issues in that partnership; offers ways to improve the operation of the federal system; and fostering federalism education for the general public, etc (Miguel, 1995). A similar institution does not exist in the European Union.

In Canada, the Institute of Intergovernmental Relations carries out quality research on how best to guarantee the Canadian Federation as well as other federations the world over. The Institute has been active in an international network of federalism scholars. It belongs to the International Association of Centers for Federal Studies (IACFS), whose membership cuts across the six continents of the world. Aside this Institute, Canada spear-heads the Forum of Federations which is an international governance organization founded by the Government of Canada and supported by nine partner governments. The Forum is concerned with the contribution federal and devolved forms of governance makes to the maintenance and construction of democratic societies and governments. It pursues this goal by:

- Building international networks and fostering the exchange of experience on federalism and multi-level governance;
- Enhancing mutual learning and understanding among practitioners; and
- Disseminating knowledge and technical advice of interest to existing federations and of benefit to countries considering devolved and decentralized governance options

### **Analytics**

Nigeria is a federal Republic made up of thirty six States and a Federal Capital Territory (Abuja). The History of Nigeria federalism dates back to the pre-independence constitution of 1954 called the Lytleton Constitution. However, with the advent of the 1979 and 1999 constitutions, there has been a profound change in the practice of federalism in the country which has called into question whether Nigeria is indeed a federation. This question has been further accentuated by recent damning report of the National intelligence council of the United States Government which forecasted that by the year 2020, Nigeria might cease to exist as a nation-state. The level of government that should take responsibility for such issues as federal character, power sharing, revenue allocation, maintenance of public order, fiscal federalism, judiciary, local government, etc. are the major centripetal and centrifugal forces that have threatened the consolidation of the Nigeria federation. The current situation where the federal government is a towering overlord over the component states on issues enumerated above, and much to the disenchantment of the states, requires a thorough re-examination and possible redress. The bottom line is that attitude and excesses of political power elites lie central to the crises and contradiction of Nigeria federalism. In spite of this, it is maintained that, there is still hope for consolidation of the Nigeria federalism (Iyekekpolo et al., 2011).

- ✓ The peculiarities of the Nigerian state, especially its geo-political composition, demand a creative search for answers to national challenges through the practice of true federalism which the proposed Bill tends to do.

- ✓ Nigeria better fits into the characterization of a struggling unitary state retarded by some inherent tendencies and weaknesses foisted by its colonial heritage and long years of military rule. Therefore, there is the need for an institutional framework to ensure compliance to the principles of true federalism.
- ✓ Nigeria has three tiers of government each with different expenditure responsibilities and taxing powers, and to guarantee hitch-free intergovernmental fiscal relations, fiscal arrangements must be worked out properly to ensure fiscal balance in the context of macroeconomic stability and forestall usurpation of powers (Akpan, 2004).
- ✓ Fiscal federalism and revenue allocation formula in Nigeria are some of the most discussed issues in Nigeria because of its effects on the stability of the country. In view of this, what accrues to each level or unit of government is of major concern to every individual stakeholder (Omotoso, 2010) have discussed these issues in details.

In any federal system, there must be an arrangement on how the revenue of the state will be shared among the component parts. Federal finance is an extremely important and controversial subject because: It affects the allocation of administrative responsibility because the financial resources available will place limits on the scope of administration which either levels of government is able to sustain. It affects the political balance because whichever level of government that has the major financial power controls the other; and it is significant also because the assignment of fiscal and expenditure powers will determine which governments are able to use these instruments to control the economy . However, the long years of military incursion into the nation’s body politics has not only militarized the polity but also made the central government very powerful to the detriment of the states and local governments.

The pertinent question we should ask here is: do we really need a special body in the country to be able to perform the functions of monitoring the operations of Nigeria’s federal system among other things and ensuring smooth relations amongst the three tiers as well as the three organs of government in the country? Can the existing democratic institutions and other governance related institutions perform these functions? Will it not be a duplication of functions of federal character commission, etc.? Can any of the democratic institutes be empowered to take the functions of the proposed commission?

With the existence of the Federal Character Commission, and the Revenue Mobilization and Fiscal Commission, the establishment of the National Commission for Intergovernmental Relations and Federalism amounts to duplication of institutions with similar functions. The table below shows the functions of the proposed National Commission for Intergovernmental Relations, Revenue Mobilization, Allocation and Fiscal Commission and Federal Character Commission.

## Findings and Discussion

**Table 1:** Similarities Between the Proposed Commission and two other Government Agencies

<b>National Commission for Intergovernmental Relations and Federalism.</b>	<b>Revenue Mobilization and Fiscal Commission.</b>	<b>Federal Character Commission.</b>
(a) Monitor the operation of the Nigerian federal system and recommend necessary improvement; (b) Study such problem areas that would create or are likely to create stress for the federal system, make	(a) Monitor the accruals to, and disbursements of revenue from the Federation Account; (b) Review, from time to time the Revenue Allocation Formulae and principles in operation to ensure	(a) to promote, monitor and enforce compliance with the principles of proportional sharing of all bureaucratic, economic, media and political posts at all levels of government; (b) to work out an equitable formula, subject to the approval of the President,

<p>appropriate recommendations to the various arms of government and relevant institutions;</p> <p>(c) appraise the various dimensions of intergovernmental relations and make recommendations on how to-</p> <p>(i) improve efficiency in the administration of the federation;</p> <p>(ii) improve taxation and ensure equitable allocation of resources; and</p> <p>(iii) enhance cooperation among the different component units at all levels of government</p> <p>(d) Liaise and involve with the activities of institutions whose functions border on intergovernmental relations at federal, state and local levels.</p>	<p>conformity with changing realities;</p> <p>(c) Advise the Federal, States and Local Governments on fiscal efficiency and methods by which their revenue is to be increased;</p> <p>(d) Make recommendations and submit its findings by a report thereto to the Government of the Federation or of the States, as the case may be, regarding the formula for distribution of the Federation Account and the Local Government Accounts.</p>	<p>for the distribution of all cadres of posts in the civil and the public services of the Federation and of the States, the armed forces, the Nigeria Police Force and other security agencies, bodies corporate owned by the Federal or a State Government and Extra-Ministerial Departments and Parastatal of the Federation and States;</p> <p>(c) to advise the Federal, State, and local governments to intervene and influence providers of services, goods and socio-economic amenities to extend such services, goods and socio-economic amenities to deprived areas of the country;</p>
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Source: Author's Compilation

- ❖ The mode of emergence of Nigerian federalism constitutes an albatross on its effective workability as an instrument of good governance.

For a smooth relations amongst the three tiers as well as the three organs of government in the country and ensure even development, while reducing the hues and cries of marginalization by some sections of the country, there should be an institutional framework to ensure compliance. Fiscal autonomy is lacking as States and Local Governments have been excessively dependent on the Federation Account. This no doubt affects the developmental goals of these levels of government as they are sometimes hampered by the unpredictable fluctuations in their shares of the Federation Account.

The absence of a strict Intergovernmental and Federalism regulatory body (measure) in the country has attracted unhealthy rivalry, usurpations of powers and functions, abuse of power and engendered underdevelopment in Nigeria. The commission can be made more proactive towards corruption free operation by enlisting either ICPC or EFCC into the Board of the Centre and making it mandatory that the Centre's account be critically audited by the office of the Auditor – General of the Federation, in order to ensure that the Centre's revenues are judiciously utilized, and the noble objectives achieved

**Merits of the Provisions of the Bill:**

- ✓ If passed, the Bill will give a new meaning to both the state and local governments in Nigeria through a sustainable and conducive environment (i.e. the practice of true federalism & equitable revenue derivation formula), engender sustainable development in the country, and resource control, especially as strict control measures were streamlined in sections 1, 2, 15.
- ✓ It will reduce friction and ensure peaceful coexistence among the over 250 ethnic nationalities that constitute Nigeria. The root cause of some of the ethnic and religious crises in the country actually has political undertones (i.e. the nation's inability to practice true federalism), so when cordial relationship ensues among the tiers of government, development and peace will follow.
- ✓ This country needs a body with legal backing for the purposes of monitoring the operations of Nigeria's federal system among other things and ensuring smooth relations amongst the three tiers as well as the three organs of government in the country. It will ultimately reduce the hues and cries of marginalization, violence and insecurity, while helping in transforming the nation and its citizenry to true democrats operating a true federal state.

### **Demerits of the Provisions of the Bill**

- With the Revenue Mobilization and Fiscal Commission and Federal Character Commission in place, the establishment of the proposed Commission amounts to duplication of functions and institution.
- The financial strength needed for the establishment of the proposed Commission is enormous for a mono-cultural and wobbling economy like Nigeria.
- The establishment of the proposed Commission will not only lead to cordial intergovernmental fiscal relations but will also douse the call for sovereign national conference. On the contrary, it could lead to overburdening the nation's economy, especially now that government has gone into the rationalization of MDAs. The salary of the Commission's staff, the structures to house the Commission, office equipment, etc. require fund.

### **Conclusion**

From the forgoing, the success of Nigeria's federal system for effective governance depends largely on an appropriate division of responsibilities and fiscal federalism among the three tiers as well as the three organs of government. An institutional framework is quite important for good intergovernmental fiscal relations, but caution should be exercised to avoid over-burdening the economy through unnecessary duplication and proliferation of agencies.

### **Limitations of the Analysis**

- i. The paper only focused on proffering solution on the present state of the nation's federalism and intergovernmental relations through legislative and institutional mechanisms, but did not explore possible reasons why the existing structure has failed to work, despite spirited efforts by successive regimes.
- ii. The analysis did not take full cognizance of other factors besides legislative and institutional variables that has hampered the practice of true federalism and hitch-free intergovernmental relations.
- iii. Also, the paper could not ascertain the extent to which inter-agency rivalry and regional acrimonies have affected the smooth running of true federalism and intergovernmental relation in Nigeria.

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