The Politics of Revenue Allocation in Nigeria Since Independence: An Overview

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THE POLITICS OF REVENUE ALLOCATION IN NIGERIA SINCE INDEPENDENCE: AN OVERVIEW

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Abstract

This paper is designed primarily to offer a historical overview of the Politics of Revenue Allocation in Nigeria since Independence. Revenue generation and allocation among the federating units of Nigerian federation is a crucial issue in that as soon as there exist two or more levels or tiers of government, it becomes necessary to introduce a system of sharing funds to various tiers of government to particularly meet constitutionally assigned and specified functions. There is the problem of how to allocate revenue to these different tiers of government in relation to the constitutionally assigned functions. The discordance between fiscal capacity of the various levels of government and their expenditure responsibilities, the non-correspondence problem is a striking feature of Nigerian federal finance. There is also the problem of how revenues should be shared among the state governments and local government councils. This explained why it has remained resolution resistant despite the determined efforts of various administrations/government in Nigeria to the conflicts. The central thrust of this paper is that revenue allocation formula are wrapped because they have not been “open covenants, openly arrived at” rather they reflect the views of commissions, individuals or groups within the commissions, which have shown proclivity for embracing theories, beliefs, ideas and approaches which have not only proved unrealistic, but have thereby contributed to the dislocation within the Nigerian state. The paper therefore, concludes that once the question that usually revolves around the derivation and allocation of revenue is resolved, the problem of inter-governmental financial relation among the federating unit would be resolved and the gap between the unitary and federal states would be closed.

Introduction

A major disability prior to independence and shortly after independence under which Nigerian federalism laboured excruciatingly has been how to equitably share revenue between the constituent parts of the federation. The political elites from the three regions viz; North, East and West in the first Republic and the six geo-political zones as it is now referred to exhibited the fear of domination of one over the other and distrust for one another. Each of the regions wanted to control the government from centre (Nwabueze, 1982). Consequently, from independence in 1960 till date, Nigeria’s revenue allocation system was neither efficient nor equitable. Indeed it manifested a wide spectrum of vulnerability, ethnicity, language, region and religion interactively from Nigeria’s matrix of cultural pluralism (Onosode, 1993). This is done through the mechanism of revenue allocation which is sometimes manipulated to the exclusive advantage of some groups, to the disadvantage of others. Nnoli (1980), however, slams such manipulation on ethnically motivated groups who are all out to engineer and manipulate the revenue allocation machinery to their own advantage, for politics as the process of authoritative allocation of resources in Nigeria is no more than ethnic politics (Nnoli, 1980). The manipulation of revenue allocation machinery is under a condition of absence of clear definition of revenue allocation formula and principles in the nations constitution or where the section
dealing with such sensitive issue is prescribed by radical elements who enthrone themselves on the federal government pedestal through coup and counter coup as is often the case in Nigeria. In either case, the machinery of revenue allocation would be left on the centripetal forces that tend to coalesce at the centre, at the national level, while the centrifugal forces at the regional and state levels would scramble, agitate and realign for a fair share of the statutory revenue allocation and at the same time oscillate between harmony and discord to secure anything from the non-statutory grant that flows from the centre which Adefeji (1969), referred to as grant-in-aid.

In the face of such complexities therefore, several revenue allocation principles had to be adopted, faulted and discarded. The point being stressed here is that an overview of the revenue allocation commissions is vitally important in unraveling the paradoxes and to understand the contemporary predicament of the Nigerian context of federalism which consists of the federal government, 36 states, 774 local government councils where decisions of individuals, men and women determine what policies states should pursue. This is why an understanding of the human factor and the report of the commission between 1960 till date are very crucial to the proper appreciation of the whole concept of Nigeria’s revenue allocation strategies as the strength and weakness manifested in the present epoch.

**Conceptual Clarification**

It is imperative to attempt a definition of some of the concepts used in our discussion. This is to avoid aimless meandering through of our subject and to provide the ground on which to stand. It will also form a guide to what we are looking for. Thus, the terms that need to be conceptualized include “Politics” and “Revenue Allocation”.

**The “Politics’ Concept”**

Different scholars define politics in various ways. However, Aristotle the great Greek political philosopher began his famous work *Politics*, with the observation that “man is by nature a political animal” (Baker, 1962:1). By this he means that the essence of social existence is politics and that two or more men interacting with one another are invariably involved in political relationship. Aristotle also means that very few people prefer an isolated life to one that includes social companionship (Anifowose, 1999:1). Men are engaged in politics as they try to define their position in society, as they struggle for scarce resources and as they try to convince others to accept their point of view. Aristotle then concluded that the only way to maximize one’s individual capabilities and to attain the highest form of social life was through political interaction with others in an institutionalized setting, a setting designed to resolve social conflicts and to set collective goals – the state (Baker, 1962).

Meanwhile, politics according to Dahl (1995:1-5), is the process of making and execution of governmental decisions or policies. For Easton (1971:129), the authoritative allocation of values or who gets what’s, when and how (Lasswell, 1971:7). Merki (1970:5), the quest for power, order and justice. The art of influencing, manipulating and controlling others (Wright, 1955:130). While Ranny, 1975:35-38), sees it as a process of resolution of conflicts in society and Dyke (1960:134), a struggle among actors pursuing conflicting desires on public issues. “Politics is the activity (negotiations, argument, discussion, application of force, persuasion, etc) by which an issue is agitated or settled” (Baker, 1962:116).

Politics therefore, is essentially about the struggle for power in the society. It has to do with decision as to the allocation of scarce resources to the multiplicity of needs of member of the society. It reflects the competition, conflicts of interests and divergences of opinion which exist in the society.
Politics also has to do with the exercise of power and authority and the relations of power in any given society. Hans J. Morgenthau (in Oruluwene, 2003).

The “Revenue Allocation” Concept

In every federal state, a formula is usually devised to share revenue of the federation between the central government and the government of the component units on the one hand and among the government of the component units on the other. The fiscal arrangement among different tiers of government in a federal system is often referred to as inter-governmental fiscal relations and in other types of political structure, it is known as fiscal federalism. For convenience, the terms revenue allocation, fiscal relation are used interchangeably in this paper, for they all mean the same thing.

Revenue allocation is the mechanism for the sharing of the country’s financial resources among the different tiers of government in the federation, with the overall objective of enhancing economics growth and development, minimizing inter-governmental friction and promotion of national unity (Onu, 1994:119).

Conceptually, fiscal operations on any country can be viewed from two extreme forms of the public sectors. On one hand, there exist a highly decentralized fiscal system in which the government at the centre has no economic responsibility and the other tiers of government perform virtually all-economic functions. The other extreme is a case of total centralization, where the central government takes total responsibilities for all economic activities of the public sector and therefore no other tiers of government participate in the economic life of the nation (Ekpo, 2004).

In practice, there exist some degrees, of decentralization in all economies. Decentralization refers to the portion of total revenue collected and expenditure allocated to both state and local governments. The degree of decentralization is the extent of independent decision-making by the various arms of government in the provision of social and economic services. It connotes the degree of autonomy of state and local governments in carrying out various economic tasks. Nigeria’s revenue allocation has emanated from historical, economic, political, geographical, cultural and social factors. In all of these, fiscal arrangements remain a controversial issue ever since. Therefore, there exist unresolved issues on the matter which have influenced the nature and character of the intergovernmental fiscal relations. As Nigeria progressed from a unitary to a federal type of government, this form of government became more and more decentralized. There were changes in fiscal arrangements. Thus, in an overview of politics of revenue allocation in Nigeria, the take off shall be from 1960 when Nigeria attained political independence.

The Binn’s Commission of 1964

In spite of previous commissions headed by Sydney Philipson (1946), Hicks-Philipson (1951), Louis Chick (1953) and Jerry Raisman (1958), before political independence in 1960, Binn’s commission was the first revenue allocation commission be set up or instituted after Nigerian independence in 1960. Its creation followed important political reforms namely the referendum of 1961, by which the North-West Trusteeship Territory of Cameroon voted for merger with Nigeria, and South-West Trusteeship Territory voted to merger with the Cameroon as well as the creation of Midwestern Region from the Western Region in 1963. And following the introduction of a Republican constitution of 1963, Binn’s commission was appointed in 1964 to review inter-governmental relations. Its term of reference included an examination of the appropriateness in the prevailing circumstances in Nigeria of (a) the formula for the allocation of the proceeds of mining, rents and royalties, laid down in section 140 of the constitution of the federation; and (b) the formula for the distribution of funds in the Distributable Pool Account (DPA) as laid down in section 141 of
the constitution of the federation (Binn, 1964:58), having regard to the current political changes. By implication, the size and population of the Northern region had increased, while the size and populations of Eastern and Western regions decreased as evidence in the census report of 1963. The commission also accepted the representation of the regional governments that allocation to the regions through DPA should be increased, or special grants to boast their allocation be set up to be shared on fixed percentages.

Consequently, the commission’s recommendation which are operational up to 1966/67 were as follows: (a) retention of principles laid down by the Jerry Raisman Commission of 1958, that is the Commission rejected the distribution of funds based on principles of derivation and need, and (b) introduced or utilized the principles of regional fiscal/financial comparability, continuity in government services and maintenance of minimum responsibilities in distribution of funds from DPA. As a result of this principles injected into the system, the shares from DPA were re-distributed as follows: North (42%), East (30%), West (20%) and Mid-west (8%). But these principles were deficient to the extent that it did not realistically and unequivocally determine in relative terms the cash position of the regions, the tax efforts and the standard of services provided by them. Nevertheless, the system remained in force till 1968 (Olaloku, 1972:122; Philips, 1980:161; Dina, 1971:384; Adedeji, 1969:15 and Odusanya, 1984:53).

The Dina’s Commission of 1968

After the military intervention in 1966, the commission was set up in the middle of the Nigerian Civil War, thus it operated under severe emergency situation. Part of the emergency include the creation of 12 states on 27 May, 1967; declaration of Civil War on 6th July, 19767; suspension of revenue remittance to or from the Eastern region; the continuous use by the Eastern region of the Nigeria currency externally for arms purchase while using Biafran currency internally, thus, implying Nigeria’s payment for arms used by both sides in the war; the devaluation of the British Pound starting in November, 1967, thus creating disparity between Nigerian and British pound; and the need to support the administrative take-off of the new states in conducive areas (Imeh, 1994:106).

The Commission chaired by Chief I.O. Dina, Permanent Secretary in the then Western States was in July 1968, charged to look into and suggest any change in the existing system of revenue allocation as a whole as well as new revenue sources. The Dina commission had among its members Professor Oyetunji Aboyada of the Department of Economics, University of Ibadan and A.E. Ekukinam, Director of Research at Central Bank of Nigeria (CBN) (Ayida, 1973:7-8). The commission after reviewing the existing revenue formula recommended allocation to be based on the following principles: (a) national integration; (b) basic needs of the states; (c) equitable and balanced development; and (d) derivation. Based on these, the Northern region which was then divided into 6 states, each had an allocation of 7% from the DPA totaling (42%) for Northern region, Western State (13%), Lagos State (2%), Midwestern State (8%), Eastern Central State (17.5%), Southeastern State (7.5%) and Rivers State (5%). These recommendations were implemented throughout the war period with some minor adjustments, such as introduction of dichotomy between the on-shore and offshore oil rents/royalties, and economic sanction against the Eastern region.

However, the federal military government rejected the report of Chief Dina Commission and enacted Decree 13 of 1970. The Decree modified the distribution of DPA and the revenue paid into the account was distributed among the states on the basis of 5% on equality of states and 50% on population. Furthermore, an offshore revenue decree was promulgated in 1971, it amended section 140 (6) of the 1963 constitution which provided that the continental shelf of a state is part of that state. The 1971 amendment stated that (a) the ownership of and title of the territorial water and the
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continental shelf shall vest in the federal military government; and (b) all royalties, rents and other revenues derived from or relating to the exploration, prospecting or searching for or the mining or working or petroleum (as defined in the petroleum decree of 1969) in the territorial waters and the continental shelf shall accrue to the federal military government (Ekpo, 2004:17).

The implication of the off-shore was that all the revenue from off-shore operations accrued to the federal government, while those from on-shore operation were allocated as per the existing formula: 45% to derivation; 50% to DPA and 5% to the federal government. In 1975, further changes were effected in the revenue allocation formula: 45% to derivation; 50% to DPA and 5% to the federal government. In 1975, further changes were effected in the revenue allocation system. The DPA was enlarged and revenue credited to the account included 35% of import duties other than motor fuels, tobacco, wine, portable spirits, and beer; 100% of the import duty on motor fuels and tobacco; 50% of excise duty on any commodity, 100% of the export duty (if levied) on produce, hides and skins, 80% of mining rents and royalties from the off-shore operations. According to Ayida (1973:8) paradoxically the commission by act of commission or omission contributed to the aggravation of the inequalities inherent in the revenue allocation system. Hence its report and recommendation were neither accepted by the government nor published officially, has been regarded as not only one of the best documentation on the country’s fiscal system but also one which was too far ahead of its times.

Aboyade’s Commission of 1977

The technical committee on revenue allocation headed by Professor Oyetunji Aboyade included Professor R.O. Teriba, an Ibadan-based economist as member, the Commission also commissioned experts to submit memoranda and these included Professor Dotun Philips and Dr. Adebayo Agedoji was set up under the General Muhammed/Obasanjo’s regime. It was the first committee on revenue allocation after the Nigerian Civil War, the creation of 19 states in 1976, and the reform of the local government structure as a third tier of government, 1976. The committee was inaugurated by General Obasanjo in 1977 as part of the plans to return the nation to democratic rule and the demand by the Constitution Drafting Committee (CDC) for a new revenue allocation formula inclusion in the proposed new constitution (Adebayo, 1990:1-2). As such these variables were recognized by the committee and addressed as appropriate in its recommendations.

The term of reference of the committee however, were to take into consideration the need to ensure that each government of the federation had adequate revenue to enable it to discharge its responsibilities with regard to population, equality of status among the states, derivation, geographical peculiarities, even development, national interest and any other factors bearing on the problem. The committee was also to analyze the existing revenue allocation formula with a view to determining its adequacy in the factors mentioned above and representations from the federal government, states and other interested parties (Ekpo, 1994). Based on the above factors, the committee was charged with recommending new proposals as necessary for allocation of revenue among federal, state as well as the local governments, and also among state and the local governments and making whatever recommendation were deemed necessary for the effective collection and distribution of federal and state revenues. The committee rejected the former principles used in previous allocation systems. On the other hand, it recommended the following:

(1) All federal revenues should be subject to the allocation scheme.
(2) The consolidated federal revenue should be shared as follows: (a) Federal government (57%), (b) State government (30%), (c) Local government (10%) and (d) Federal government special grants (3%).
The five criteria in allocating funds in the states joint account or sharing the 30% among the states are: (i) equality of access of development opportunities, (ii) national standard for national integration, (iii) absorptive capacity, independent revenue, and minimum tax effort and (iv) fiscal efficiency. The following weights were assigned to each of the above criteria respectively: 0.25, 0.22, 0.20, 0.18 and 0.05. The same formula was equally suggested for local governments.

The federal government in accepting the committee’s recommendation modified the formula to read thus: 60% for federal government, no change in the State and Local government shares, and no allocation for the special grant account. The other significant recommendations of the committee accepted by the government included: (i) the concurrent subjects in the new constitution would be similar to those of 1963 constitution (ii) the local government would be entrenched in the new constitution as a third tier of government (iii) all mineral rights would be vested in the public ownership (iv) the tiers of government would be allocated tax power and functions, and (v) revenue collected by the federal government (apart from personal income tax from the armed forces, external affairs, officers and the new federal capital territory) would be shared among the federal, states and local governments (Ekpo, 1994). The committee maintained that the use of derivation principles in revenue allocation should be de-emphasized because it unjustifiably raised the revenue to some regions/states at the expense of other and its use became worrisomely negligible since it will accelerate uneven progress that will breed regional conflicts and hostility; and as a result, it is a factor of disunity (Adesina, 1998). In essence, the committee urged the abrogation of the application of the principle of derivation which it erroneously attributed to be largely responsible for poisoning inter-governmental relation and for hampering the sense of national unity.

The Commission further alluded that the principle had the effect of denying the federal government the power to effect inter-state redistribution of income. This must have created the bases for virtual abandonment of the principle of derivation by successive military regimes when revenue accruing to the states governments were drastically reduced to ridiculous levels. But as later events have proven, de-emphasis of the principle of derivation has caused more political tensions and threats to national unity in recent times than in the past, especially during the colonial administration and under the Independence Constitution of 1960 and Republican Constitution of 1963, when derivation principles was given greater prominence in revenue allocation. The situation then was such that states received as much as 50% of revenue accruing from their internal resources (Nwokedi, 2003:68-69).

The Commission report came under severe criticism as regards the weights attached to the five criteria and the recommendation that state governments should administer company income tax and that principle of derivation should be de-emphasized. It was feared that state government administering company tax would introduce complications while the weights were arbitrary, Uduebo (in Ekpo, 2004). The principles enunciated by Aboyade commission would have been incorporated into the new constitution of 1979, it not for some “technicalities”. For instance, it was not clear to the Constitution drafting body why the principle of derivation was not explicitly defined; also the statistical analysis used to differentiate between more developed and less developed states in Nigeria turned it all upside down, since it showed that then Anambra State, for instance was the less developed than Bornu, Niger or Gongola (Adamawa) States. As Professor Phillips sum up his observations “the statistical definition of all Aboyade Inter-state sharing principles led to similar, perverse and invidious results (Philips, 1980:177).
The Okigbo's Commission of 1980

Soon after the swearing-in of the Shagari-led civilian administration on 1 October, 1979, the presidential commission on revenue allocation headed by Pius Okigbo (also called the Okigbo's Commission) was constituted. Other members of the panel included: Dotun Philips, Dr. G.B. Leton and Alhaji Ahmed Talib. It was the only commission set up under section 272 of the 1979 Constitution. All other revenue Commissions in Nigeria were set up under different circumstances. The Okigbo was the fourth of such commission after independence and the second under a democratic republican government which was set in motion two months after a new civilian administration assumed power. Its task was to provide acceptable modalities for revenue allocation, vertically among different levels of government, and horizontally among governments of the same level with respect to states and local government (Mbanefoh, 1989:202).

The commission recommended the following:

(i) Allocation among the tiers of government (a) Federal government (53%), (b) State government (30%), (c) Local government (10%), (d) Special funds (administered by the federal government) (7%), Total = 100%.

(ii) From (i) above, the horizontal allocation among the states should be based on the following criteria: (a) equality of states (40%), (b) population in state, (c) social responsibility as indicated by enrolment in school primary (15%), (d) Internal Revenue generation effort (5%) = 100%.

(iii) From (i) above, the allocation of the 7% was to be (a) Federal Capital Territory (21/2%), (b) Revenue equalization funds payable to state (11/2%), (c) Ecological disaster area in oil mineral producing states (2%), and (d) Ecological disaster areas in non-mineral producing states (1%), Total = 70%.

(iv) Equity principle was defined as comparing the criteria of derivation, even development, continuity of services, minimum government responsibility, financial comparability, population, equality of states, national minimum standard, equal opportunity for development (William, 1982:185).

Despite the initiative of the Commission, the report was bedeviled by contradictions, that was responsible for its submitting one majority report and two minority reports in 1980, government modified and accepted its reports in that the bill for revenue appropriation 1981 was based on the recommendations of the commission, it said to have been manipulated into a law for revenue allocation (Okigbo, et al. 1980). This led to serious litigation between the then Bendel State and the Federal government. However, on 2 October, 1981, the supreme court of Nigeria declared the recommendation of the Okigbo Commission as invalid, null and void, and of no effect. After the Supreme Court had voided the Okigbo-inspired revenue allocation formula, a new Revenue Act of 1981 was passed by the National Assembly. It went into operation in January 1982. The Act which lasted until December 1989 and which thereby remained the longest lasting revenue formula in the history of Nigeria fiscal federation. Distributed federally collected revenue as follows: Federal Government (55%), State Government (35%), and Local Government (10%) and the horizontal allocation among states was to be: Equality of State (30%), Derivation (2%), Mineral oil producing area development (1.5%), and Ecological disaster fund (2%), Mineral oil producing area development (1.5%), and Ecological disaster fund (1%) (Imeh, 1994:109).

The indices for states equality included state equal location (40%), population (1963) (40%), state primary school enrolment (15%) and internal revenue generation effort (5%) (Ekpo, 1994:1113). The revenue act survived for so long, not because it was equitable and just, but because the two
successive military governments in power after December, 1983 – Buhari/Idiagbon and Babangida respectively ignored several criticisms and agitations leveled against the Act. For example while some states received more than their statutory allocations, other received less. Except for 1983, Lagos received more than it statutory allocation during the entire period. In 1986-89, Anambra State got far more than its statutory allocation while the Middle Belt state of Plateau received less than its share of the Federation Account (Ekpo, 1994:1134). There is no doubt that economic, political and social pressures resulted in cases of excess allocation. The entire scenario thus made mockery of the revenue system and the federal structure within which it subsisted. The inability to stick to the allocation guidelines and the persistent cry for equitable distribution of revenue inevitably led to the inauguration of another revenue allocation commission by Babangida administration.

The Danjuma’s Commission of 1988

The Babangida administration in 1988, in order to address the issue of equity in revenue allocation, inaugurated the National Revenue Mobilization, Allocation and Fiscal Commission (RMAFC) under the chairmanship of General T.Y. Danjuma (Rtd). Because of its peculiar circumstances, in the administration of revenue principles it inherited and the formats adopted or recommended for it clearly represented a classical case of travesty of the principles of federalism. It equally represented a negation of the principles or ideas of Structural Adjustment Programme (SAP) which the regime introduced in 1986 (FRGN, 1986). One of the cardinal principles of SAP is social justice which proclaimed the equity and distributional objectives of government intervention in the economy (Mbanefoh, 1987:105). These objectives therefore called for whole panoply of the changes in the insalubrious political, social, economic and fiscal principles prevalent within the polity. It would be recalled that prior to this, Nigeria’s calculation were not bound on the totality of the collectivity (Ikime, 1997:7). It was this that rendered the issue of revenue allocation one of the uncommon intensity. It was against these background and in order to address the equality in revenue allocation that the Babangida administration in line with the principle of SAP and federalism, inaugurated this Danjuma led commission in 1988 (FRN, 1990).

In December, 1989, government modified and accepted the recommendations of the commission. Among other issues or things noteworthy that government agreed with the commission was that there should be no dichotomy between on-shore and offshore on production for the purpose of revenue sharing and for the development of mineral producing areas. The important aspects of the revenue allocation formula of the Danjuma Commission approved by government on vertical allocation are summarized below: Federal Government (50%), State Government (30%), Local Government (15%) and Special Funds (5%). Other aspects of the revenue allocation regime that came out of this effort utilized what has been regarded as a cumbersome, static and arbitrary yardstick to wit. Equity of states (40%), Population (30%), Land mass (10%), Social development (10%) and Internal revenue generation effort (10%) = 100% (Nwankwo, 1992:276-77).

The formula was supposed to be an improvement on the previous formula, a studious perusal of the formula revealed that it not only retained some of the anachronism of the earlier ones, but also introduced obnoxious aspects of its own; first of all, the act of picking a soldier to head revenue allocation commission at that period when the nation was trying to grapple with the negative effects of a commandist structure was in bad taste. Its low percentage weights it assigned to derivation, and the disproportionate weight given to population and population related factors in relation to equality of states makes its claim of equitability, reasonableness and acceptability circumscribed by its adherence. The introduction of land mass as an index of revenue allocation was also regarded as retrogressive and unfair (Nwankwo, 1992:278). The revenue allocation formula also encouraged fiscal
centralization which allowed the federal military government to perpetuate on inescapable sense of dependence among states. In fact, the government added a new dimension to revenue allocation when it gave only 2% of the revenue from the mineral exploitation in direct proportion to the value of minerals extracted from each state and another 1.5% only was allocated the fund to be administered by the federal government for the development of the mineral-producing states of the country.

The Current Democratic Experiment

In May, 1999, the country military regime was replaced with a democratic government through ballot boxes. During this period, there exist controversies regarding the country’s fiscal operations. The federal government was accused by oil producing States for not honouring the derivation principles as stated in the 1999 federal Constitution. The federal government introduced the on-off-shore dichotomy implying that oil found in the sea cannot be ascribed to the adjoining state. The on-off-shore controversy resulted in the Niger-Delta region calling for a greater control of their resources (petroleum) Ekpö, 2004:24). The agitation for resources control overheated the polity and the federal government sought a solution. Consequently, the then Attorney General of the Federation and the Minister of Justice, Late Chief Bola Ige filed a suit on behalf of the federal government at Supreme Court in respect of the matter of resource control in 2001. The Supreme Court was specifically implored to interpret the constitution of the Federal Government as it relates to section 162 and determine the seaward boundary of the Littoral states. This was to clarify whether the Littoral states are entitled to the 13% derivation applicable to the revenue from national sources of Nigeria’s territorial waters, continental shelf and exclusive economic zone (Egwaihkhide, 1004:19).

All the states of the federation were joined in the action. In their counter-claims, some of states challenged the constitutionality of the federal government action in refusing to pay their 13% derivation with effect from the date of the coming into force of the 1999 constitution and also non-inclusion of revenue derived from gas exploration in their 13% derivations. They therefore, sort the court injunction to restrain the federal government from violating the constitution in the resources declared in their claims (Nwokedi, 2003:151). It is to be observed that section 162 (1) of the constitution of the Federal Republic of Nigeria 1999, established the Federation Account into which shall be paid all revenues collected by the government of the federation, with a few exceptions not relevant to the case before court. Sub section (2) of section 162 of the constitution empowers the National Assembly to determine the formula for the distribution of funds in the Federal Account. Sub section (2) also provides that the President upon receipt of advice from the RMAFA shall table before the National Assembly proposal for revenue allocation from the Federation Account. It further states that, in determining the formula, the National Assembly shall take into account the allocation principle especially those of population, equality of states, internal revenue generation, land mass terrain as well as population density; provided that the principle of derivation shall be constantly reflected into an approved formula as being not less than 13% from the national resources (FRN, 1999).

The proviso to this sub-section entrenches, with respect to the national resources, the principle of derivation in any formula the National Assembly may approve. By this principle “not less than 13%” accruing to the Federation Account directly from any natural resources shall be payable to a state of the federation from which such natural resources are derived. For a state to qualify for this allocation of funds from the Federation Account, the natural resources must have come from within the state, that is, the resources must be located within the state (Nwokedi, 2003:152). Predictably, all the Northern States tat filed statements of defence at the Supreme Court aligned themselves with the position of the Federal Government, which insisted that all revenue accruing from the exploration of
coastal water should be deemed to belong to the Nigerian state, and as such should not be subject to the derivation formula.

The Supreme Court in resolving the above issues and other issues in revenue allocation passed a lead judgement delivered by Hon. Justice E. Ogundare on Friday 5th of April 2002, ruled amongst others; that the seaward boundary of a littoral state within the Federal Republic of Nigeria for purpose of calculating the amount of revenue accruing to the Federation Account directly from the naturally resources derived from state pursuant to section 162 (2) of the 1999 constitution, was the low-water of the land surface. This means that revenue from this source should be paid into the Federation Account and derivation cannot be applied to such revenue, for it is an offshore revenue (This Day, 8 April, 2002). It however, ruled that natural gas is a resource. As a result, the revenue collected from it qualifies for the application of derivation for the benefit of any state from which it is obtained. However, wharves and seaports were not considered as natural resources. The Supreme Court further declared that the use of 13% has no legal basis in the 1999 constitution. The constitution provides for a minimum of 13% and the use of this minimum figure is not prescribed by the federal lawmakers and approved by the president. Accordingly, the minimum 13% derivation that is in use is based on the rule of the thumb and it is discretionary (This Day, 8 April, 2002). It also ruled that the constitution of the Federal Republic of Nigeria having come into force on 29th of May, 1999, the principle of derivation under the proviso to section 162 of the constitution came into operation on the Sunday 29th May, 1998, that the federal government was obliged to comply therewith from that data. By this, the counter-claim of affected state for arrears of the revenue they derived from natural resources within the states that were withheld by the federal government was upheld, amongst other policies or practices of federal government that were unconstitutional and being in conflict with the 1999 constitution as succinctly summarized in This Day of 8th April, 2002.

From the above mentioned Supreme Court ruling on off-shore claims which went in favour of the Federal Government and making Akwa Ibom State the biggest causality, in that the bulk of oil from the state is off-shore based on the seaward boundary of the littoral states. The other states – Bayelsa, Cross River, Delta, Ondo and Rivers also lost, though with varying degrees. A political solution was then sought as a result of the disaffection with the judgement by the oil producing states of Niger Delta region. A bill abrogating the on-shore-off-shore dichotomy was passed into law, in order to douse tension in the oil-producing states (Egwaikkhide, 2004:20).

Recommendations and Conclusion

The paper has gone this far to buttress the importance of revenue allocation in the politics of any federation and Nigeria in particular. The paper therefore, stress that the revenue sharing formula which enjoyed acceptability in the colonial days and in the First Republic needs a revisit. The large funds at the disposal of the federal government should be discouraged. Some of the issues being carried out by the federal government should equally be withdrawn. The states and the local governments are more grassroot based levels of government and should be entrusted with more responsibilities and more funds.

The criteria for sharing revenue should principally be based on derivation. This will make every state to go back to the roots. The rot is that agriculture and other cash crops should be grown for export and emphasis on oil as the only revenue earning material should whittle down. In conclusion, this paper has focused in detail some important aspect of Nigeria’s revenue allocation principles by examining among other features inter-tier revenue allocation and macroeconomic management. It also identified the problem of inter-governmental fiscal conflicts which intensified with the return to civil rule. The judgment of the Supreme Court of Nigeria on revenue allocation and the key socio-political
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development thereafter were articulated as discernable that there is both vertical and horizontal fiscal imbalance in Nigeria. There is asymmetrical relationship between internally generated revenue of the states and revenue from the Federation Account. It is therefore noted that the various views expressed confirm that federalism is characterized by the political struggle between different interest groups. And the struggle ends as soon as derivation principle is adopted in allocation of revenue. Hence, the issue of revenue allocation remains the lifeblood of federalism.

References


This Day (2002), April 08.
