The Federal Republic of Nigeria

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Nigeria became an independent state on 1 October 1960. Since then, the military has ruled the country for a total of 30 years while democratic governance has existed for only 17 years - 1960–66, 1979–83, and 1999 to the present. This may appear to be a short period upon which to base a proper evaluation of the interaction between federalism and the institutions of government, especially in comparison with federations that have existed for decades or even centuries. The focus of this chapter, however, is not so much on the evolution of democratic institutions as it is on their nature and characteristics. The Nigerian case is interesting for another reason as well. Nigeria has experimented with two major systems of government during its relatively short experience with democratic rule: (1) a parliamentary system, in a form broadly along the lines of the Westminster model, which operated from independence in 1960 to 1966 when the military first took over the government; and (2) a presidential system somewhat similar to that of the United States of America, which was in use from 1979 to 1983 and is in use again now. The colonial era also provides interesting examples of strategies and structures that, in the circumstances of Nigeria, led to the creation of a federation.

THE LAND AND THE PEOPLE

The evolution of Nigeria as a nation can be traced to 1914, when the British protectorates of Northern and Southern Nigeria were amalgamated by the imperial government. The amalgamation was motivated by the desire to pool resources so that the relatively rich territories of southern Nigeria could assist their poorer neighbors in the North. It also made it easier for the British to control the entire territory. It was, therefore, the pursuit of European economic ambitions and expeditions through conquest that crystallized in the rather artificial creation called Nigeria. The opinions of the peoples so amalgamated were not sought, and there was no form of consultation with their kings or rulers. Indeed, amalgamation and British rule were greeted with protests, and there were continual threats of secession at different times before independence in 1960 and even up to today.

The artificially created Nigeria of 1914 brought together a multiplicity of tribes and ethnic groups with different languages, cultures, and traditions. Some of the independent nation-states, kingdoms, and communities that were thus combined included the kingdoms of Kanem-Borno, which had a history before the advent of colonialism; the Sokoto Caliphate, which for over a hundred years preceding its conquest by Britain had ruled much of present-day northern Nigeria; the city-states of Niger-Delta; the largely decentralized Igbo-speaking peoples of the South East; and the Yoruba Empire of Oyo, which had once been the most powerful state on the West African coast.

It is estimated that there are between 250 and 400 national and ethnic groups in Nigeria. Each group has its own language and customs and has accepted one or more of the main religions: Christianity, Islam, and African traditional religion. Until recently, the imported religions of Islam and Christianity were confined mainly to the northern and southern parts of the country, respectively, but both are now gradually spreading to various parts of the country, primarily as a result of the dispersal of the major ethnic groups throughout the federation.

Nigeria has a land area of 923,768 square kilometres, situated fully within the tropical zone. The population is estimated at between 110 and 130 million people. Nigeria’s gross domestic product (GDP) per capita is US$300 per person or less. Geographically, the country can be classified into two major temperature zones: the tropical rainforest area, which stretches from the coast to about 9° latitude north, and a savannah zone, which covers the rest of the country up

to the Nigeria/Niger border.

Some crucial agricultural products are found in each zone, although the bulk of agricultural production is in the North. The mineral wealth of Nigeria, however (including, for example, petroleum, coal, marble, limestone, clay, and salt), is found mainly in the rainforest area, while tin, limestone, gold, platinum, bayrite, iron, and steel are found in the North. All of Nigeria's seaports are located in the southern part of the country. The interdependence of the North and the South with regard to the location of natural resources, seaports, and agricultural products are important factors that have fuelled federalism in Nigeria.

HISTORY

Nigeria's constitutional development has been ably canvassed elsewhere. It is examined here only to the extent that it throws light on contemporary institutions. The point was made earlier that the various parts of what is now Nigeria were brought together as a single colony within the British Empire in 1914. From this time until Nigeria achieved independence in 1960, a succession of four colonial constitutions was put in place, providing for a range of governing institutions and performing legislative, executive, administrative, and judicial functions, albeit still subject to imperial authority. As a generalization, the effect of these constitutions was to confer increasing degrees of internal self-governance on Nigeria, although gradually at first and without significantly involving the Nigerians themselves in the business of government until the last decade before independence. Nevertheless, this period was important in two ways. First, the institutions established during this time were broadly in the British common-law tradition, whose influence on institutional design continued after independence. Second, the foundations of Nigeria as a federation were also laid during this time, through a process that has been described as "creeping federalism." Thus the three regions for which the Constitution of 1946 provided, reflecting earlier colonial administrative groupings, were given a greater measure of self-governance in the quasi-federation of 1951 and became the constituent units of a Nigerian federation in the last colonial Constitution of 1954.

The independence Constitution of 1960 retained the Queen and other indicia of former colonial status, but it was replaced by a republican Constitution in 1963. Both the constitutions of 1960 and of 1963 were federal in character, however, establishing three (and from 1963 four) strong regions with constitutions and institutions of their own. Power was divided for federal purposes using both an exclusive and a concurrent list, leaving the residual power to the regions. A senate was established as a federal chamber, with members selected by the regional legislatures from persons nominated by the governors, but with power only to delay rather than to veto legislation.

Both constitutions also provided for parliamentary government. In addition, the 1963 Constitution established the position of president of the republic. The president was elected by the houses of the federal Parliament in a joint sitting for a term of five years, was designated commander-in-chief of the armed forces, and was invested, at least formally, with executive power. The office was largely ceremonial, nevertheless, and in most cases the Constitution required the president to act on government advice.

The post-independence period was turbulent, marked by a succession of crises as parties struggled viciously for the power and resources of the centre, embroiling the institutions of the state in the battle against their opponents. Arguably, the parliamentary system, with its winner-take-all ethos and with the potential for tension between the formal power of the president and the actual power of the prime minister, contributed to the difficulties of the time. Whatever the cause, however, this first phase of government in independent Nigeria ended on 15 January 1966 when the military assumed control. The Constitution of 1963, with its institutions of republican government, was abolished. For a time, federalism was abolished as well, until the resulting ethnic conflict caused it to be restored, albeit in altered form. In 1967, 12 states were created in

place of the previous four strong regions, and another seven states were added in 1976, further strengthening the federal sphere of government at the expense of the state sphere. The process of subdividing the country into smaller and smaller units continued until, in 2005, there were 36 states and 774 municipalities. During the military period, additional powers were transferred to the federation as well, including the universities and telecommunications.

Military rule came briefly to an end in 1979, only to be reinstated in 1984 for another 15 years. Between 1979 and 1984 the civilian Constitution provided for a presidential rather than a parliamentary form of government. It also retained federalism and used a number of other devices to attempt to reduce ethnic tension, including the "federal character" principle to mandate recognition of the diversity of Nigeria's people in the composition of any government body. The failure of the Constitution was the result of mismanagement and misuse, involving both spheres of government. When military government ceased for the second time in 1999, the new civilian Constitution broadly followed the model of the Constitution of 20 years before.

THE FEDERAL LEGISLATURE

General

The federal legislature is the bicameral National Assembly, which is composed of the Senate and the House of Representatives. The National Assembly makes laws on matters assigned to the federation, either exclusively or concurrently. The 68 exclusive powers of the federation include, for example, trade and commerce and other commercial powers, labour, aviation, other forms of transport of an interstate or international character, police and prisons, and minerals and mining. The National Assembly also has power to make treaties - signed on behalf of Nigeria by the executive - part of Nigerian law by "domesticating" or enacting them as Nigerian municipal laws irrespective of subject matter. The National Assembly has the power, as well, to secure "safety and public order." In the exercise of the latter power, it may also take over the law-making functions of the legislature of a state where the state legislature is unable to function "by reason of the situation prevailing in that state". The president has power to proclaim a state of emergency, which can last for two days when the National Assembly is in session or for ten days when it is not in session (unless it is supported by a resolution adopted by two-thirds of all the members of both houses).

Like most legislatures, the National Assembly also has functions in relation to the control of the public money of the federation (through taxation, appropriation, and supplementary appropriations) and the scrutiny of expenditures. In recent years this has emerged as an area of conflict between the legislature and the president. The Constitution provides that withdrawal of public money from the consolidated revenue fund must be authorized by an appropriation. However, it is the function of the president to prepare the estimates of revenue and expenditure and to lay them before the National Assembly. In these circumstances, it is argued that the National Assembly may not examine, reduce, or increase the sums attributed to particular items in the estimates submitted by the president. The members of the National Assembly maintain, however, that an appropriation bill is like any other bill that goes through the normal legislative process and that the legislature has a right to examine its provisions and to change the figures if it chooses to do so, either by increasing or reducing them. This view receives some support from provisions of the Constitution dealing with the legislative process, which does not make a distinction between ordinary bills and appropriation bills regarding the powers of the National Assembly to consider and adopt them.

Refusing to accept the position of the National Assembly, the president tried in a subtle manner to apply sanctions against it by withholding approved budgetary allocations to it and thus, in effect, twisting its arm. The Assembly responded by proposing a bill to establish its own financial autonomy, adapting the precedent already in place for the judiciary. In addition, on more

than two occasions a draft notice for the impeachment of the president was circulated on the grounds, inter alia, that he had acted in gross violation of the Constitution by withholding monetary allocations that had been approved by the National Assembly. On each occasion, however, the problem was resolved through negotiation between the protagonists and the intervention of the political parties and traditional rulers. One conclusion that can be drawn from these events is that the president appears to be so powerful that the legislature finds it difficult to check his violations of the Constitution.

Another, classical, function of the National Assembly involves scrutiny of government and associated inquiries. This has also proved controversial at times. The Constitution authorizes the Assembly to conduct investigations into matters falling within the sphere of federal authority, for purposes relevant to its own functions. In one instance, in the early 1980s a committee of the Senate had asked an editor of a national newspaper to appear before it in relation to material he had published and which was derogatory to the image of the Senate. Instead of doing so, the editor approached the courts to restrain the Senate from compelling his attendance. The High Court granted him relief. On appeal, the Court of Appeal struck out the suit altogether, saying that the provisions of the Constitution were not "designed to enable the Legislature to usurp the general investigative functions of the Executive and the adjudicative functions of the Judiciary. In other words, the section does not constitute the House as a universal 'Ombudsman' inviting and scrutinizing the conduct of every member of the public for purposes of exposing corruption, inefficiency, or waste."[29]

More recently, however, a federal minister who was being investigated by an ad hoc committee of the House of Representatives went to the High Court to stop further proceedings against him. The defendants filed a preliminary objection in which they claimed that the issue was a matter internal to the legislature. The courts upheld the objection. The National Assembly has no authority to require citizens to appear before it beyond the circumstances for which the Constitution provides. But equally, the Court of Appeal said that it could not assume jurisdiction over internal proceedings of the legislature in respect of a mere invitation to a citizen to appear before it, where the invitation did not materially affect the civil rights of the citizen. It is clear from these cases that the courts do not want to interfere with the legislature in the exercise of its functions and powers so long as there is no breach or violation of the Constitution.

The relationship between the National Assembly and the president is broadly typical of a presidential rather than a parliamentary system, although it should be noted that opinion in Nigeria is sharply divided over whether a parliamentary system should be introduced. Those in support of reintroduction maintain that a parliamentary system is less expensive to run than is a presidential system, encourages viable opposition in Parliament and in the polity, and fosters accountability. However, despite these positive factors, the prevailing view seems to support continuation of the presidential system because it has not given rise to any insurmountable problems.

The institution of a presidential structure has the following consequences. The president is not a member of the National Assembly. Nevertheless, he or she is free to attend any joint sitting of the National Assembly or any meeting of either house, either to deliver an address on national affairs (including fiscal measures) or to make statements on government policy that he/she considers to be of national importance. In practice the president presents his/her annual budget speech at a joint sitting of the Senate and the House of Representatives. A minister may also attend either house, when invited to do so, in relation to matters concerning his or her ministry.

The president is also involved in the law-making process in various ways. First, as the head of the executive branch, the president introduces bills to the National Assembly for passage into law, in addition to the budgetary measures that were discussed earlier. Second, the president must give assent to a bill passed by the National Assembly before it can become law. If the president fails to give assent within 30 days or signifies that he/she withholds assent, the bill is

returned to the Assembly. If passed again by each house with a two-thirds majority, the bill becomes law without the president's assent. If the president withholds assent to a taxation or appropriation bill, on the other hand, the Constitution provides that the bill may be presented to a joint sitting of the two houses of the National Assembly. If passed by a two-thirds majority at the joint meeting of members of both houses, it becomes law without the president's assent. The president has refused to give his assent to bills on only a few occasions. One of these concerned the Electoral Bill 2002. The president claimed that it contained provisions inconsistent with provisions of the Constitution. However, the Senate and the House again passed the bill, and it became law without the assent of the president.

Finally, the president has power under Section 315 of the Constitution to make such modifications to laws that were in existence before 29 May 1999 as he or she considers "necessary or expedient" to bring the laws into conformity with the Constitution. Although this is a limited power to deal with one aspect of the transition from military rule, there is a view within the National Assembly that conferral of legislative power on the president in this way is a usurpation of the powers of the Assembly. Thus, when the president, soon after taking control in 1999, exercised this power by dissolving the Petroleum Trust Fund (PTF), which was created by a pre-1999 statute, he was accused of acting illegally and unconstitutionally. His action was not, however, challenged in the courts because many constitutional lawyers maintained that the measures he took were in conformity with the provisions of the 1999 Constitution.

There are no constitutional provisions or even informal constitutional arrangements that guarantee the representation or participation of certain groups or representatives of minorities in the National Assembly. However, the Assembly recognizes the need to ensure the representation of minority-party members in some committees. Major committees normally consist of members nominated by the various political parties represented in either of the houses in accordance with their numerical strength. It should be noted in this regard that, at present, the National Assembly is dominated by two major parties: the People's Democratic Party (PDP) and the All Nigeria Peoples Party (ANPP).

The House of Representatives

The House of Representatives represents the people of Nigeria in proportion to population. It consists of 360 members, elected from single-member constituencies according to a first-past-the-post electoral system. There has been some discussion of changing to proportional representation, but no concrete proposals have been made, and the debate - if it is a debate - is still in its early stages. The total number of members of the House is distributed between the states according to population. It follows that the largest states, such as Oyo and Kano, have the largest number of House members. No constituency may cross state borders. The Constitution requires the constituencies to be nearly equal in population size.

The registration of voters for both federal and state elections, the drawing of federal constituency boundaries, the conduct of federal elections, and the registration of political parties are under the direction and supervision of the Independent National Electoral Commission (INEC). The chair and twelve other members of INEC are appointed by the president. The president must consult with the Council of State, an advisory body that includes all former heads of government and chief justices of Nigeria, the presiding officers of the two houses of the Assembly, all state governors, and the attorney general. Appointments to INEC are also subject to confirmation by the Senate. Concern has been expressed about the influence of the president over the appointment process because of the need to insulate the electoral officers from partisan politics and control by the executive.

The Constitution requires INEC to review and, if necessary, to revise constituency boundaries at least every ten years. The effectiveness of this procedure depends on the availability of information about population figures, obtained through the census or another

mechanism. In any event, new constituency boundaries cannot come into effect until approved by the two houses of the legislature. There has, however, been no census since 1991, and the holding of a census – which was being attempted in March 2006 – is a controversial issue because population figures dictate the distribution of federal funds and the operation of the federal character principle and have other implications for relations between the very diverse groups that constitute Nigeria.

The House of Representatives has a fixed four-year term. All resident Nigerians over the age of 18 years have a right to vote. A candidate for election must be a citizen of Nigeria, at least 30 years of age, and educated to at least school certificate level or its equivalent. A candidate must also be sponsored in the election by a political party of which he or she is a member. It follows that independent candidates cannot normally contest elections in Nigeria and that a candidate cannot change party allegiance during his or her legislative term. Commentators have criticized the requirement of party membership as undemocratic, and there appears to be a broad view that the restriction should be removed. There has been a question, too, about whether the education qualification should be increased, in recognition of the complexity of legislation and governance in the contemporary world; however, no consensus has emerged.

Members of the House of Representatives are subject to a range of disqualifying criteria: dual citizenship, forms of criminal conviction, and bankruptcy, among others. In addition, a member may be recalled if a petition signed by more than half of his or her registered constituents is approved at referendum. So far, no legislator has been recalled either from the federal or a state legislature, although legislators are often threatened with recall by their constituents.

Although thirty registered political parties contested the general election in 2003, only four of them - the People's Democratic Party (PDP), the All Nigeria Peoples Party (ANPP), the Alliance for Democracy (AD), and the All Progressives Grand Alliance (APGA) - were able to sponsor candidates successfully into the House of Representatives. However, the PDP received a clear majority in the House, controlling about 70 percent of the members, with 25 percent for the ANPP and about 5 percent for the AD.

Interestingly, the majority party has good support from various parts of the country and within the three major ethnic groups of Hausa, Igbo, and Yoruba as well as among minority groups. It is also the party to which the president of the federation, Chief Olusegun Obasanjo, belongs. In practice, due to the absence of strict party discipline, the president does not always receive the full support of party members in the House of Representatives. Nevertheless, the president has the total support of the party's political leaders.

The Senate

The second chamber of the federal legislature is the Senate. It comprises three senators from each of the 36 states of the federation, and one senator from the federal capital territory, Abuja, bringing the total number to 109. The Senate has the same term as does the House of Representatives, and the qualifications of voters are the same. The qualifications of candidates are also much the same, with one exception: candidates for the Senate must be at least 35 years of age.

As with the House of Representatives, INEC is responsible for registering voters and conducting the Senate elections. INEC is, for this purpose, authorized to divide each state of the federation into three senatorial districts in such a way that the number of inhabitants in each district is as nearly equal to the population quota as is reasonably practicable. Every district returns one member to the Senate.

In contrast to the House, the composition of the Senate is based on the principle of the equality of states. Each state is entitled to three senators, irrespective of its population size. During the debate in the Constituent Assembly, it was claimed that this arrangement is consistent with contemporary principles of federalism. Again, however, there is some debate about change.

First, it has been suggested that the Senate should be restructured to allow nominated members, rather than just elected politicians, to serve. Such nominees might represent special interests such as women, labour, youth, and civil society, and they might involve such professional bodies as the Nigerian Bar Association and the Nigerian Medical Association. The presence of such experts in the Senate would improve its ability to review legislation thoroughly and effectively. Second, it is sometimes argued that the present bicameral situation, whereby the House of Representatives and the Senate are elected in much the same manner and perform similar functions, is a waste of time and effort.

It should be noted, too, that although the senators are elected from the component states, they do not see themselves as direct representatives of their states. In fact, sometimes a senator may even refuse to support a matter involving his or her state merely because the governor of that state is a political enemy or belongs to a different political party. Senators tend to see themselves as representing their constituents rather than their states.

The Senate shares law-making power with the House of the Representatives. In addition, the Constitution confers other, specific powers on the Senate. No member of the armed forces of the federation can be deployed on combat duty outside Nigeria without the approval of the Senate unless the president is satisfied that national security is under imminent threat. Nominations for appointment to a ministerial position must be confirmed by the Senate. The Constitution also requires the Senate to confirm the nominations by the president for a range of other positions on commissions established by the Constitution, including INEC, the Federal Character Commission, and the federal Judicial Service Commission.

Bills may originate in either house and are required to pass both houses. Inevitably, conflicts arise from time to time between the positions taken by the respective houses on particular measures. The Constitution makes provision for such a disagreement where the bill concerned is a taxation or an appropriation bill. Where a bill of this kind is passed by one house but not by the other within two months from the commencement of a financial year, the president of the Senate must convene a meeting of the joint finance committee to try to resolve the differences between the houses. If the bill is passed at the joint sitting, it is submitted to the two Houses for approval before being presented to the president for assent. There is no comparable constitutional procedure for other categories of bills. In practice, however, the joint committee system is used in these cases too. The conflicts over the Electoral Bills of 2001 and 2002 are examples. By agreement, the Senate and the House of Representatives are equally represented in a joint committee. The members of the House normally concede the chair to the Senate and accept the deputy chair position, but this is not a settled matter or general rule.

The joint committee system has proved an effective means of dealing with disagreements between the houses. There is no recorded case where the committee failed to reach a consensus, and the two houses have always approved the reports of the joint committee.

THE FEDERAL EXECUTIVE

Political executive

The president is the head of state of Nigeria, the chief executive of the federation, and the commander-in-chief of the armed forces. The executive power of the federation is vested in the president, who may exercise the power directly or through the ministers or other officers. The scope of executive power is described by the Constitution as extending to "the execution and maintenance of this Constitution, all laws made by the National Assembly, and … all matters with respect to which the National Assembly has … power to make laws."

The president thus wields extensive powers. He or she nominates the vice president, who is elected on the same ticket as is the president, appoints all federal ministers subject to the approval of the Senate and assigns responsibilities to them, and appoints other public officers,

again subject to Senate approval. In a reflection of the federal character of the country, the Constitution requires the president to appoint one minister from each state; ministers may, however, be removed from office at the will of the president.

To qualify for election to the office of president, a person must be a citizen of Nigeria, have attained the age of 40 years, be a member of a political party and be sponsored by that party, and have been educated up to at least school certificate level or its equivalent. The qualifications for election as president are the same as are those for the National Assembly, except that a presidential candidate must be at least 40 years old. The president is elected for a fixed four-year term on a ticket with the vice-president. He or she may be re-elected for only one further four-year term. Either the president or the vice-president may be removed from office by impeachment on the grounds of gross misconduct in the performance of the functions of office. The decision to proceed with impeachment must be approved by a two-thirds majority of each house; the charges themselves, however, must be investigated by a panel especially appointed under Section 143 of the Constitution. The panel's report, in turn, must be accepted by a two-thirds majority in each house. So far, no president or vice-president has been impeached.

The president is directly elected, using the country as a whole as a single constituency. The electoral system is a modified first-past-the-post system, which also requires the successful candidate to receive at least one-quarter of the votes cast in at least two-thirds of the states and the capital of Abuja. The rationale is to ensure that the president has some support in at least two-thirds of Nigeria's states. A simple national majority alone would not be adequate because a presidential candidate with support in four big states could readily obtain a simple majority over the other candidates but would not necessarily have broad-based support throughout the country. It is difficult to say whether this system provides the expected broad-based support, given that, at almost every previous presidential election, there have been allegations that the elections were characterized by malpractice and corruption.

In recent years, there had been some debate about changing the rules for electing the president. There may be emerging consensus that the country should be composed of six geo-political zones: three in the North and three in the South. One suggestion for structural and institutional reform is that the post of the president of the federation should rotate between the North and the South, among the geo-political zones. The south-south zone, from which Nigeria produces its oil, maintains vigorously that, because it has not produced a president since independence, the next president, to be elected in 2007, should come from there. Other suggestions include provision for multiple vice-presidents, or even for a presidential council comprising six members, with one from each zone. These and other ideas were considered by a national political reform conference that was established by the president in 2005.

From time to time, the configuration of parties and the electoral results require a degree of power-sharing between the parties. Thus during the civilian government of 1979–83, the National Party of Nigeria (NPN), which produced the president and which had its base primarily in the North, was compelled to enter into a political alliance, or understanding, with the Nigerian Peoples Party (NPP), which had its base in the East. The parties shared the posts of ministers and chairpeople as well as membership of boards and parastatals. In 1999 and 2003, however, the position was quite different. President Obasanjo is a member of the People's Democratic Party (PDP), which sponsored him for the election. The PDP has an overwhelming majority of members in the Senate, in the House of Representatives, and in local councils. Presently it controls about 28 of Nigeria's 36 states. It can govern without substantial reliance on any other groups.

There is, however, one body - the Council of State - of which state governors are members, together with a range of other current and former office-holders. The Council of State advises the president on a range of matters, including the census, the prerogative of mercy, the grant of amnesty to convicted criminals, the awarding of national honours, and INEC. To the extent that the council includes state governors, it reflects the federal character of the country, even though its function is purely advisory.

In 2005, however, the president drew on the support of the council in making difficult decisions. In March 2005, when the government wanted to establish a national political reforms conference, the National Assembly opposed it and refused to approve financial allocations of about one billion Nigerian naira for the conference on the grounds that there was no budgetary allocation for it. The Assembly insisted that the president should submit a supplementary appropriation bill explaining the need for the conference and the details of the proposed expenditure. The president took the matter to the Council of State, which supported holding the conference and advised the president to get money for it from outside the Consolidated Revenue Fund so as to avoid the need for the National Assembly's consent. With the support of the Council of State, the president established and inaugurated the conference. Some members of the House of Representatives took the matter to court, challenging the action of the president as unconstitutional; however, the court's decision was not given before the conference completed its assignment. At the conclusion of its work, the conference submitted its report to the president of the federation who, in turn, submitted it to the National Assembly, requesting that it be taken into account in the course of its deliberations on amendments to the Constitution.

Administration and other Institutions

There is a federal civil service in Nigeria, organized in ministries, departments, and other agencies. Fourteen federal executive bodies have constitutional status and are subject to a distinct constitutional framework, which is further considered below.

The civil service itself is firmly under the control of the president. The executive power of the federation, which is vested in the president, may be exercised through "officers in the public service of the federation." The president appoints ministers and assigns departments to them, at his or her discretion. Senior positions in the civil service, including the permanent secretaries of ministries and heads of departments, are filled by the president; incumbents hold office at the president's "pleasure." In filling these positions, the Constitution requires the president to have regard to the "federal character of Nigeria and the need to promote national unity." The Federal Civil Service Commission has the power of appointment and disciplinary control of other officers in the public service. This commission is one of the executive bodies established by the Constitution. Its members are appointed by the president, subject to approval by the Senate, and have some constitutional protection against arbitrary dismissal.

The seat of the federal government is the national capital of Abuja. A federal secretariat has been established in each state capital, however, in which certain departments have state headquarters. These arrangements appear to work well, subject to the problems of bureaucratization and corruption that affect much of the Nigerian public service.

The Constitution provides for the establishment of 14 specific federal executive bodies, providing a framework for their functions and powers and for the appointment and removal of their members. Three have been encountered already: the Council of State, INEC, and the Federal Civil Service Commission. Two others, with particular relevance to federalism, are examined briefly below: the Federal Character Commission and the Revenue Mobilization Allocation and Fiscal Commission. Generally, however, it should be noted that, with some specified exceptions, appointments to these bodies require the approval of the Senate; that in a few cases, of which INEC is an example, appointments also require consultation with the Council of State; and that the members of some bodies, including those examined below, have some formal constitutional protection against arbitrary dismissal, at least to the extent of requiring an address from two-thirds of the Senate, seeking removal on the grounds of misconduct, or inability to discharge the functions of the office.

Some bodies, including those below, are also protected from direction but only with regard to making appointments or exercising disciplinary control. The National Population Commission has wide protection in relation to its substantive functions; on the other hand,

members of this commission are automatically dismissed if the president declares a census report "unreliable" and it is rejected by the president on the advice of the Council of State.

One federal executive body with particular relevance to federalism is the Federal Character Commission. The commission plays a role in relation to the fundamental objectives and guiding principles of state policy, which are set out in Chapter II of the Constitution. These objectives and principles are directed to ensuring unity of the diverse peoples of Nigeria in an unusually explicit way. In particular, the composition of the government and the conduct of its affairs are required to "reflect the federal character of Nigeria … ensuring that there shall be no predominance of persons from a few states or from a few ethnic or other sectional groups in the government or in any of its agencies." The function of the Federal Character Commission is to monitor implementation of this principle; to work out an equitable formula for distributing posts, which must be approved by the National Assembly; to promote and enforce compliance with the principle; and to take legal action against bodies that fail to comply. The commission comprises a chair and a representative of each state and of the federal capital. Appointments are subject to approval by the Senate.

A second executive body with particular relevance to federalism is the Revenue Mobilization Allocation and Fiscal Commission. Nigeria uses an elaborate system of fiscal federalism, pursuant to which revenues collected by the federation are paid into a federation account and are disbursed between the three spheres of government (i.e., federal, state, and local) in a manner that takes into account certain constitutional criteria, including, significantly in the circumstances of Nigeria, the principle of derivation in relation to revenues from natural resources. The commission monitors the accruals to and disbursements of revenue from the Federation Account; periodically reviews the revenue-allocation formulae; advises both spheres of government on fiscal efficiency; and determines the remuneration for specified political and judicial office holders in the federal and state spheres of government, including the president, the governors, legislators, and judges of federal and state courts. The commission comprises a chair and members from each state and from the federal capital.

The final executive body to be considered in this part is the Corrupt Practices and Other Related Offences Commission. Unlike the earlier bodies, this commission is not recognized in the Constitution. It was established by statute in 2000 in an attempt to deal with the problem of corruption, which has dogged the progressive development of the Nigerian federation and which successive federal governments have failed to resolve. It is indisputable that corruption is a serious stumbling block both to socioeconomic development and to the effective and efficient operation of institutions of governance. The control or eradication of corruption is a first important step to the attainment of stable democracy. The Corrupt Practices and Other Related Offences Act creates offences in relation to corrupt practices. The commission is responsible for investigating and prosecuting offenders against the act throughout the country. The commission comprises a chair and twelve other members, two of whom must come from each of the six geo-political zones of the federation. Members are appointed by the president, subject to approval by the Senate. The commission has undertaken a number of prosecutions against some prominent public officers for corrupt practices; however, as yet, no important convictions have been recorded, primarily because of the difficulty in obtaining the relevant evidence and the dilatory nature of the proceedings.

THE FEDERAL JUDICATURE

The Nigerian federal structure provides for both federal and state courts exercising federal and state judicial power, respectively. There is a greater degree of interdependence between the spheres of government in relation to the judiciary, however, than in relation to the legislative and executive branches. Most significantly, appeals lie from the high courts of the states to the federal Court of Appeal and from there to the Supreme Court of Nigeria. In addition, appointments to the

courts in both spheres are made by the respective heads of state on the recommendation of the National Judicial Council, another federal executive body established by the Constitution. Among the 23 members of the council are the chief justice of Nigeria, five retired justices, and five chief judges of states, chosen from the states in rotation. The council also deals with disciplinary matters, court budgets, and the removal of judges from office on constitutional grounds.

The hierarchy of federal courts comprises the Supreme Court, the Court of Appeal, and the Federal High Court. The 22-judge Supreme Court has a limited original jurisdiction over disputes between governments but otherwise exercises appellate jurisdiction from the Court of Appeal. The Court of Appeal comprises 50 judges, at least one of whom must have expertise in Islamic personal law and at least three of whom must have expertise in customary law. The Court of Appeal has original jurisdiction to deal with election petitions relating to the election of the president and the vice-president; otherwise, it exercises appellate jurisdiction from the federal High Court and from state courts, including state sharia and customary courts. Its original jurisdiction can be onerous. Since the 1999 Constitution came into force, there have been frequent election petitions to the court alleging that the president was not elected in conformity with the Constitution or that there had been electoral malpractice or corruption during the election. As there is no time limit within which the Court must conclude proceedings on an election petition, the litigation can drag on for three or four years – effectively for the whole period of office of the candidate concerned. Thus election-petition proceedings against the President Obasango, for example, went on for over two years after his being sworn in as president.

The final federal court of record, apart from the courts established for the federal capital of Abuja, is the Federal High Court, which exercises a broad, original federal jurisdiction.

The Constitution of Nigeria is supreme, and laws inconsistent with it are void. The powers of judicial review on the ground of constitutionality can be exercised by both federal and state courts, with a final right of appeal to the Supreme Court of Nigeria. Certain matters are non-justiciable, however. The courts may not determine whether law or government action is consistent with the Fundamental Objectives and Directive Principles of State policy set out in Chapter II of the Constitution. Nor can the courts deal with questions about whether laws were lawfully made during the periods of military rule.

STATE INSTITUTIONS

The federal institutions of government are broadly replicated in the states, where all three branches of government can be found: legislative, executive, and judicial. There are considerable similarities in the structure and rationale for these institutions, but there are some important differences as well. There are no separate state constitutions; the framework for state as well as federal institutions is found in the Constitution of Nigeria.

State legislatures

Each of the 36 states has a unicameral legislature known as the house of assembly. The total size of each house of assembly is three or four times the number of seats to which the state is entitled in the federal House of Representatives, within a range of 24 to 40. Each state is divided into the relevant number of constituencies, and the Constitution requires the division to reflect a broad equality of population numbers in each constituency. Elections are conducted for the states by INEC. States use the voters' roll prepared by INEC for the country as a whole.

The houses of assembly perform the same functions for the states as does the National Assembly for the federation. However, the legislative powers of the state assemblies are limited to the Constitution's list of concurrent powers. If a federal law is inconsistent with a state law on a matter in the concurrent list, then, to the extent of the inconsistency, the federal law will prevail and the state law will be void. The legislative procedure in the states is similar to that of the

National Assembly, subject to the obvious difference that the state assemblies are unicameral. As in the federal sphere, the governor has a veto, which can be overridden by a two-thirds majority of the assembly. Unlike in the National Assembly, no distinction is made between financial and other bills.

The Constitution provides several sets of circumstances in which the federation can intervene in the affairs of states, involving the state assemblies. First, the National Assembly may legislate for a state if a state house is unable to perform its functions because of a particular situation prevailing in that state. In this case, the federal legislature effectively takes over the legislative functions of the state assembly as long as the situation lasts. So far, the National Assembly has not taken over the powers and functions of a state assembly. Second, the president may declare an emergency in a state on the request of a state governor, with the support of a resolution of two-thirds of the state assembly, in the face of an actual or pending breakdown of public order and safety or of a natural disaster or calamity in the state. The president may issue a proclamation in these circumstances even without a state request, if a state governor fails to make a request "within a reasonable time." Thus in May 2004 the president proclaimed a state of emergency in Plateau, in the face of sectarian violence apparently sparked initially by a dispute over land and livestock. The president suspended both the governor and the state assembly for six months. The proclamation was supported by both houses of the federal legislature. Use of this power is rare, and the suspension of the state authorities was criticized in some quarters as contrary to the Constitution.

Members of state legislatures are sponsored by the same political parties that sponsor federal members of Parliament. In reality, the state legislators are expected to support the policies of the executive branch that are in conformity with the manifestoes of their political parties. In practice, though, there is no organized system of relationship between the legislators and their political parties or between the legislators at different levels of the legislature. In the end, both state and federal legislators act according to their perceived interests.

Political executive of the states

The executive branch in each state is structured in broadly the same way as in the federal sphere, with some modifications. Each state has a governor, who is the chief executive officer of the state, and a deputy-governor, elected on the same ticket as the governor. For the purpose of gubernatorial elections, the entire state is a single constituency. The election rules require a candidate not only to receive a majority of votes (or a majority of "yes" over "no" votes in an uncontested election) but also to receive support from at least one-quarter of the voters in at least two-thirds of the local government areas in the state.

The executive power of each state is vested in the governor. The governor may appoint commissioners, who function effectively as ministers, and assign functions (including responsibility for departments) to them. State executive power must not be exercised in such a way as to impede the exercise of federal executive power, endanger any federal asset or investment, or endanger the continuance of the federal government in Nigeria.

Apart from the contested case of the exercise of emergency power, to which reference has already been made, the federal government does not have a supervisory role over the activities of governors of the states. A dispute in 2004 illustrates the point, in a particular context. Some states had created new local authorities. The president took the view that the states lacked the power to do so under the Constitution and withheld payments to those states from the Federation Fund in relation to local government. In effect, the president sought to argue that the local government bodies recognized by the Constitution are fixed, inhibiting the power of states to create local authorities unilaterally. The states successfully challenged the action of the president in the Supreme Court. The Court held that the power to create local authorities lay with the states under Section 8 of the Constitution and that the president had no constitutional power to

withhold monetary allocations to them in these circumstances.

State administration

Each state has its own civil service carrying out administrative functions for the state. States do not perform administrative functions for the federal government. As in the federal sphere, each state also has some specific executive bodies that are recognized by the Constitution, which prescribes procedures for appointment and dismissal and confers functions and powers. The state executive bodies are the civil service commission, an independent electoral commission carrying out functions in relation to local elections, and a judicial service commission advising the National Judicial Council on judicial matters relevant to the state. In constituting administrative bodies, the states are obliged to take into account the diversity of the people of the state and the need to promote national unity.

State judiciary

Each state has its own court system. The Constitution provides for three types of state courts: the high court, a sharia court of appeal, and a customary court of appeal. States may also establish lower courts. Examples include the customary courts and magistrates courts in the southern parts of Nigeria that deal with customary marriages, misdemeanors, and torts and contracts outside the jurisdiction of the high courts. By contrast, area, or sharia, courts have been established in the North. Appeals lie from these various courts either to the high court of the state or to the sharia court or the customary court of appeal of the state, as the case may be.

The high court is the highest state court, with general civil and criminal jurisdiction over matters arising within the state, which do not fall within the exclusive jurisdiction of the federal High Court. A state high court also exercises appellate and supervisory jurisdiction over junior state courts or tribunals. Appeals lie from the high court to the federal Court of Appeal.

The high court of a state comprises a chief judge and a number of judges prescribed by state law. All judges are appointed by the governor of the state on the recommendation of the National Judicial Council. In addition, the appointment of the chief judge is subject to confirmation by the state house of assembly. A state judicial council advises the National Judicial Council on suitable persons for appointment to all three categories of courts. It may also recommend their removal to the national body, and it exercise disciplinary authority over the registrars of state courts.

The Constitution also authorizes the states to establish either a sharia court of appeal or a customary court of appeal to deal with questions of Islamic law or customary law, as the case may be. The appointment of judges of these courts is made on the recommendation of the National Judicial Council. Appeals lie to the federal Court of Appeal.

LOCAL GOVERNMENT

Local governments are potentially effective instruments for rural transformation and for delivering social services. This is because of their proximity to the people and the relative ease with which they can communicate with them within the local jurisdiction. The Constitution guarantees the existence of a system of democratically elected local government councils. Each state must enact legislation to establish local councils and to provide for their structure, composition, finance, and functions within the parameters prescribed by the Constitution. A local government area must be defined as clearly as possible, with due regard to the common interests of the community, traditional associations of the community, and administrative convenience. Presently, there are 774 local government councils. Some people believe that more local governments should be created, but it has not been possible to do so because of the cumbersome

provisions of the Constitution.

The Constitution envisages that local councils will participate in the economic planning and development of the area for which they are constituted and undertake such other functions specified in the fourth schedule of the Constitution, including some licensing functions, some road construction and maintenance, and registration of births, deaths, and marriages. Councils comprise a chair and other councillors who are elected for three-year terms and who may be re-elected once. After an election, the chair appoints one of the councillors as a deputy and three or four others as supervisory councillors. The remaining councillors are supposed to constitute the legislative arm of the local government body. Local elections are organized and conducted by the state independent electoral commission.

Despite the constitutional provision for local government, it is neither well structured nor well organized, and the system is both inefficient and ineffective. Additional problems in the local sphere stem from excessive state government control and interference; the diversion by state governments of statutorily allocated revenues or grants intended for local government; and encroachment by state governments on the revenue-yielding functions of local governments. Reform of the local government system is one of the challenges presently facing the federal government. The president had appointed a committee to look into the matter in 2004, but the report was not made public. The existing constitutional provisions are vague, but the question of local governments is under review by the joint committee of the National Assembly on the review of the 1999 Constitution.

INTERGOVERNMENTAL RELATIONS

There are no formal or informal interrelationships between the component units of the Nigerian federation, between the president and the state governors (for example), or between the legislative bodies in the two spheres. The only body that brings the president, the governors, and the leadership of the National Assembly together is the Council of State, which meets once a month at the instance of the president, and which has areas of responsibility upon which it advises the president.

ANALYSIS AND EVALUATION

The institutional structure of Nigerian federalism presents a complex and unique picture. Nigeria has had a succession of different forms of governance from its inception as a nation in 1914: colonialism, internal self-government, monarchy and republicanism, militarism, and both parliamentary and presidential democracies. In the early twenty-first century, Nigeria is still in search of a system and structure of government that is effective and acceptable to all its peoples. Federalism is one feature of the system upon which there appears to be general consensus; even so, there is talk of “confederation” from time to time. One source of discontent may lie in the fact that the people of Nigeria have never really gathered together to freely negotiate their political destiny. There is a view in Nigeria that the original state was an artificial creation, imposed on the people by the British colonialists, and that those who negotiated Nigeria’s independence were not genuinely free to act on the people’s behalf.

All the systems of government that have applied in Nigeria since 1922 have been based on a written constitution, but it was not until 1963 that a constitution assumed the status of fundamental law. Under the independence Constitution of 1960, the Queen of England was the supreme authority. The supremacy of the Constitution was a primary feature of both the 1979 and 1999 constitutions. As the history of Nigeria shows, however, constitutional supremacy alone is no panacea for a bad government or socioeconomic problems, nor can a system of government, however sound, unilaterally cure all the ills of society.

The major political legacies of the colonial period were a weak constitutional basis for

development-oriented politics; an unbalanced federation; regionalism that engendered mutual jealousy and fear and erected barriers against the free movement of people, goods, and ideas, thus encouraging chauvinism; a philosophy of governance in which the masses were perceived as an exploitable group and in which the leadership was unaccountable to the people; region-based political constituencies; and, most important, the existence and operation of an institutional system of government in which most of the indigenous population was unrepresented and from which it was excluded.

After independence, Nigerian federalism continued to suffer from a range of structural defects. The most serious was the overwhelming size of the northern region, which was larger, more populous, and therefore politically more powerful than the two southern regions (in the East and the West) put together. Another problem was the failure of the system to meet the demands of the ethnic minorities in all three regions. At the same time, the state was vulnerable to fragmentation in the face of pretensions to sovereignty and self-sufficiency on the part of each of its constituent parts. At various times during the 1950s and 1960s, each of the regions threatened secession. The regions enjoyed the loyalty of their respective major ethnic communities, commanded relatively substantial constitutional powers and financial resources, had become internally self-governing before Nigerian independence in 1960, and were run by the most talented politicians and bureaucrats in the country.

After seizing power in 1966, the military brought federalism as it had existed under the Constitution of 1963 to an end. Although in outward form the state was renamed the "Federal Republic of Nigeria," with three constituent regions, what existed in practice was a unitary system of government tailored to suit the hierarchical authoritarianism associated with militarism.

Federalism is regarded as indispensable to the Nigerian system of government, the only system that can guarantee the survival of the country as an indivisible sovereign state. But the present institutional structure has given rise to an unsatisfactory form of centralized government, which is dominated by the federal sphere in each of the branches of government: legislative, executive, and judicial. The component states do not have the degree of autonomy to run their own affairs that is generally enjoyed by the constituent units of a democratic federation. In the federal sphere, the two houses of the legislature appear to duplicate each other in terms of constitution, functions, and powers. The executive, centred on the presidency, is over-powerful, gradually eroding or usurping the powers of the rather weak legislature, sometimes to the point of near-autocracy. The independence of the judiciary is not reliable, especially in the face of disputes in which the government has an interest. Finally, there are continuing problems in relation to the equitable distribution of principal political and public offices - to giving all Nigerians the opportunity to participate and contribute to governance in the legislative, executive, and judicial arenas. The present negative state of affairs has led to calls for a new constitution that would emanate from and embody the will of Nigeria's peoples and stipulate the conditions and principles of relationships and associations in the Nigeria of the future.

FOOTNOTES:

[1]See Government of Nigeria, Report of the Political Bureau (Abuja: MAMSER, 1987), 27.
[2] Ibid.
[3] Ibid., 20.
[4] Government of Nigeria, Report of the Political Bureau, 19-20.
[5] Ibid., 19. See also "Debt Cancellation: A Case for Nigeria," Nigerian High Commission London (2002).
[6] Ibid.
[7] Ignatius Akaayar Ayua and Dakas C.J. Dakas, "Federal Republic of Nigeria," Constitutional Origins, Structure and Change in Federal Countries ed. John Kincaid and G. Alan Tarr (Montreal and Kingston: McGill-Queen's University Press, 2005), 241-248; J. Isawa Elaigwu, "The Federal Republic of Nigeria," Distribution of Powers and Responsibilities in Federal Countries, ed. Akhtar Majeed, Ronald L. Watts, and Douglas M. Brown (Montreal and Kingston: McGill-Queen's University Press, 2006), 208-237; Ladipo Adamolekun, ed., "Federalism in Nigeria: Toward Federal Democracy," Publius: The Journal of Federalism 21 (Fall 1991): entire issue.
[8] For further detail on this period, see Sebastine Hon, Constitutional Law and Jurisprudence in Nigeria (Port Harcourt: Peal Publishers, 2004), 5-12.
[9] Ayua and Dakas, "Federal Republic of Nigeria," 242.
[10] Otherwise known as the Richards Constitution; Hon, Constitutional Law and Jurisprudence in Nigeria, 6.
[11] The Macpherson Constitution; see Hon. Constitutional Law and Jurisprudence in Nigeria, ibid., pp. 7-8.
[12] The Lyttleton Constitution; see Hon. Constitutional Law and Jurisprudence in Nigeria, ibid., pp. 7-8
[13] Constitution of Nigeria, 1963, Section 42(1)(a).
[14] Ayua and Dakas, "Federal Republic of Nigeria," 243.
[15] Constitution of Nigeria, 1963, Chapter IV.
[16] Ayua and Dakas, "Federal Republic of Nigeria," 244.
[17] Constitution of Nigeria 1999, Chapter II; see also the Fundamental Objectives and Directive Principles of State Policy in this chapter.
[18] Ayua and Dakas, "Federal Republic of Nigeria," 245-246.
[19] Constitution of Nigeria, Section 47.
[20] Ibid., Schedule 2, Part I.
[21] Ibid., Section 12.
[22] Ibid., Section 11.
[23] Ibid., Section 305.
[24] Ibid., Section 80.
[25] Ibid., Section 81.
[26] Ibid., Sections 58 and 59.
[27] For example The Guardian (Nigeria), 31 August 2002, <http://www.ethnonet-africa.org/data/nigeria/reports.htm>, viewed 5 January 2006.
[28] Constitution of Nigeria, Section 88.
[29] Senate of the National Assembly & Others v. Momoh (1982) 2FNLR 307CA. at p. 315.
[30] El Rufai v. House of Representatives (2003) FWLR (Pt 137) 162 CA.
[31] Constitution of Nigeria, Section 67.
[32] Ibid., Sections 58 and 59.
[33] Ibid., Section 58(5).
[34] Ibid., Section 59(4).
[35] Osieke Ebere, "The Power of the President and State Governors to Modify Existing Laws," This Day, 13 July 1999, 27.
[36] For example, Rules of the House of Representatives, 5 October 1982, Rule 59, pp. 56-57.
[37] Constitution of Nigeria, Sections 49 and 72.
[38] Ibid., Section 71(2), Section 153, and Section 154; Schedule 3, Article 5.
[39] Ibid., Schedule 3, Article 5.
[40] A. Guobadia, Chairman of INEC, "How to Improve Nigeria's Electoral System," a paper presented to the National Political Reform Conference, 27 April 2005, <http://www.nprc-online.org/Art_8.html>, viewed 6 January 2006.
[41] Sola Odunfa, "Nigeria's Counting Controversy," BBC Focus on Africa Magazine, 14 December 2005, <http://news.bbc.co.uk/2/hi/africa/4512240.stm>, viewed 6 January 2006.

[42] Constitution of Nigeria, Section 64(1).
[43] Ibid., Section 66.
[44] Ibid., Section 68.
[45] Ibid., Section 48.
[46] Ibid., Section 71.
[47] Ibid., Section 5(4) and 5(5).
[48] Ibid., Section 147(2).
[49] Ibid., Section 154.
[50] Ibid., Section 59(2).
[51] Ibid., Section 5(1)(b).
[52] Ibid., Section 133.
[53] See National Political Reform Conference, Main Report of the Conference, vol.1, Abuja, July 2005. pp. 151-158. <http://www.nprc-online.org/more%20articles.html>.
[54] Constitution of Nigeria, Section 5.
[55] Ibid., Section 171.
[56] Ibid., Section 157.
[57] Ibid., Section 157(1).
[58] Ibid., Sections 157 and 213.
[59] Ibid., Section 14(3). See also, for example, Ladipo Adamolekun, John Erero, and Basil Oshionebo, "'Federal Character' and Management of the Federal Civil Service and the Military," Publius: The Journal of Federalism 21 (Fall 1991): 75-88.
[60] Constitution of Nigeria, Schedule 3, Clause 7-9.
[61] Ibid., Section 162(2).
[62] Ibid, Schedule 3, Clause 32.
[63] Ibid., Schedule 3, Clauses 20-22.
[64] Ibid., Section 6.
[65] Ibid., Section 91.
[66] Ibid., Section 100.
[67] Ibid., Section 11(4).
[68] Ibid., Section 305.
[69] President Obasango, "A Challenge to Democracy." Text of an address on the imposition of a state of emergency in the state of Plateau, 18 May 2004, <http://www.nigeriavillagesquare1.com/Articles/plateau_emergency.html>, viewed 7 January 2006.
[70] Gani Fawehinmi and Femi Aborishade, "Obasanjo, Plateau and the State of Emergency," Nigerian Village Square, 19 May 2004, <http://www.nigeriavillagesquare1.com/Articles/plateau_emergency_gani.html., viewed 7 January 2006.
[71] Constitution of Nigeria, Section 179.
[72] Ibid., Section 5.
[73] "President Can't Suspend LG Statutory Allocations," This Day, 2 January 2006, <http://www.thisdayonline.com/nview.php?id=37096>, viewed 7 January 2006.
[74] Constitution of Nigeria, Section 208(4).
[75] Ibid., Section 8(3).
[76] Ibid., Section 7.
[77] See also Alex Gboyega, "Protecting Local Governments from Arbitrary State and Federal Interference: What Prospects for the 1990s?" Publius: The Journal of Federalism 21 (Fall 1991): 45-59.