



'Friends of Democracy' Writes National Assembly in Nigeria

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There is no consensus whatsoever as to whether the Constitutional Review the National Assembly in Nigeria is embarking upon would serve any useful purpose. There are two main arguments against it. The first is, what is the point, given President Buhari's near absolute control of the legislature and given the president's clarity on what he wants and what he doesn't want about restructuring? The second is, why doesn't the National Assembly pick up

the vast stock of past works on constitutional review, do a critical review of them and produce something substantial? Of course, there is another point that could be added as the third: is this not another exercise in primitive accumulation or, to put it crudely, of stealing millions of Naira in the name of constitutional review even when the crisis in the country is assuming frightening dimensions by the day?

But, while these questions are being thrown at the exercise and which is very good, submissions are tumbling into the NASS, with citizens proposing this or that options. One of such submissions is published below unedited. It is done to give our readers an idea of the sort of suggestions being made and by which caliber of citizens. Happy reading!

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Constitutional Review and the Restructuring of the Nigerian Federation: Our Position

Memorandum by **Friends of Democracy** to the National Assembly Committee on the Review of the 1999 Constitution

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1.0 Introduction

Since the 1994/95 Constitutional Conference, there have been loud and persistent agitations for the restructuring of the Nigerian Federation. The most strident voices have come from Southern Nigeria whereas the Northern voice has been largely muted. This has created the impression that the South is for and the North is against “Restructuring”. In the North, there has been a long process of consultations and reflections on the subject matter. This memo sets out to propose a path to and an outcome of restructuring that serves the best interests of Nigeria as a whole, instead of just the interest of the North or the South.

1.1 In 1991, a group of politicians, intellectuals and technocrats from Northern Nigeria held several meetings in Kaduna and Kano to design and propose a new federal structure for Nigeria. Among members of this group were the Late Alhaji Sule Gaya, a former First Republic Minister, Alhaji Tanko Yakasai, the Late Chief Sunday Awoniyi, the Late Dr. Suleiman Kumo, Dr. Ibrahim Datti Ahmed, Dr. Mahmoud Tukur, Mallam Sule Yahaya Hamma, the Late Alhaji Abdullahi Maikano Gwarzo and others. They came up with various constitutional, political and fiscal alternatives and options with which to negotiate with the rest of Nigeria to restructure the federation. They invited the Late Chief Anthony Enahoro to Kano, held discussions with him and agreed to pursue a Restructuring Agenda together only for the Chief to rush to Lagos, hold a unilateral press conference and launch his own agenda for restructuring under the auspices of Movement for National Reformation.

1.2 In 2003, after twelve years of advocacy without making headway, Chief Enahoro decided to return to the same group to continue the discussions he abandoned in Kano. The 2003 discussions held at a meeting room in Sheraton Hotel, Abuja, with participants such as the Late Chief Sunday Awoniyi, Late Mallam Adamu Ciroma, Late Alhaji Umaru Shinkafi, Late Dr. Suleiman Kumo, Late Alhaji Mahmud Waziri, Prof. Ango Abdullahi and others in attendance. The Chief narrated the contours of his journey in pursuit of restructuring since 1991 and outlined the results of his consultations within the three zones in the South. He wanted the three zones in the North to each outline their own positions so he could have an overall picture of the positions of the six zones in Nigeria.

1.3 Having listened to the Chief's submission, the group referred him to the Arewa Consultative Forum, the umbrella socio-cultural organization for the North, which was founded in the intervening period in 2001. Chief Enahoro met with the leadership of ACF a couple of months later but could not sustain the consultations because he wanted separate positions from the three zones in the North on Restructuring, a position the ACF found rather condescending. Since then, a new crop of Northern intellectuals, technocrats and politicians, have continued the search for a common ground with the rest of Nigeria on restructuring in different ways but the Northern effort has been underreported in the mainstream media, for understandable reasons.

1.4 The popular opinion about the current debate is that the South as a block appears to be for restructuring. This is however more apparent than real. When the questions of how to restructure and the substance of such restructuring are posed, there are significant differences in the positions advanced in the three zones of the South and these are yet to be reconciled. Discussions on the issue in the North may also reveal significant differences between component parts of the region. It is therefore important to reflect on restructuring in a way that will promote the welfare of the people of Nigeria as a whole, while taking the divergent interests of its constituent parts into account. We begin from the premise that every part of Nigeria has a peculiar challenge that needs to be addressed but together all parts have more to gain from a united Nigeria. Restructuring must, therefore, not be conceived *a priori* to be for or against any part of Nigeria. Any contrary approach is sure to end in unqualified failure.

2.0 Background

2.1 There is a need to introduce some history into the discussion on restructuring. Protagonists tend to articulate their positions in a way that suggests Nigeria has not been restructuring. The fact of the matter however is that Nigeria has been restructuring since 1914, when the British amalgamated the three territories in the Nigeria area, the colony of Lagos and the two Protectorates to the North and South of the Niger. This symbolic act representing the “creation of Nigeria” has been widely castigated as an artificial act and a mistake. Such views erroneously believe that there are states that have been “naturally constituted”. We do know, however, that throughout history, state formations have occurred in a fluid and artificial manner. State cohesion has been patiently and painstakingly built much later. What the British created as Nigeria was made up of many autonomous and independent communities as well as diverse languages and cultures that were coerced into a new political formation. The problem of Nigeria is not so much the amalgamation of 1914, but the failure to forge a cohesive nation from the hitherto autonomous and independent entities after independence due, largely, to a primitive and backward fixation with and relentless pursuit of a utopian, uni-cultural concept of “nation”.

2.2 Lord Lugard first structured Nigeria into a political system based on ‘indirect rule’ with a policy of non-centralised administration or ‘separate government for different peoples’. This policy led to the evolution of certain structures and institutions, which to a certain extent, still characterise the contemporary Nigerian State. The basic principle of “Indirect Rule” was ‘divide and rule’. In the Emirates of Northern Nigeria and in the Yoruba kingdoms of the South West, indigenous political structures were retained and often reinforced by the colonial administration as the primary level of government, while in the South East as well as among some of the acephalous ‘Middle Belt’ societies, a new order of colonial chiefs known as ‘warrant chiefs’ was imposed. These imposed colonial structures are what some groups mistake for traditional structures, which they are agitating to retain as their’s.

2.3 In the North, traditional elites were fully involved in local colonial administration, thanks to the system of ‘Native Administration’ (NA) and were therefore allies in the administration of the British colonial system. Secondly, they had an understanding with the colonial administration to keep Christian missionaries and by implication, western education, out of the Emirates. The result was that the pace of development of Western education in the Muslim part of the North was very slow and the few that were chosen to participate in the Western education system were all employed in the NA.

2.4 In the other parts of the country, Christian missionaries were given full freedom for proselytisation and, virtually, exclusive control of Western education. It resulted in a fairly rapid evolution of a Western educated elite, to the detriment of traditional ruling elites. The new elite, however, had very limited opportunities of integrating into the upper echelons of the civil service even when they had high levels of education. Given their educational background and the frustrations of exclusion, they drifted into political agitation and adversary journalism.

2.5 In 1938 the South was restructured into two regions, the West and the East, while the North was left intact – hence the origins of the tripartite political system. This system was formalised with the Richards Constitution of 1946. The Nigerian debate over restructuring

started with the Richards Constitution. The Southern nationalists – Herbert Macaulay, Nnamdi Azikiwe and Michael Imoudu rejected the Constitution because it was designed to perpetuate the colonial structure of sharing power between the Crown and Native Authorities and mobilised for a new structure in which citizens would be the repositories of power. They travelled round the country, mobilized, raised funds and went to London in 1946 to demand for a new structure.

2.6 When five years later, they succeeded in placing self-government on the agenda with Governor Macpherson's Constitution, the Nigerian political elite had agreed to a Federation based on the three tier regional structure Lord Lugard had invented. In the process, the profound demand for democratic government in which power resided with citizens was abandoned. The guiding principle of this "new" tripartite Federation was that each Region had a 'majority ethnic group', which was to play the role of the leading actor – in the North the Hausa, in the West the Yoruba, and in the East the Igbo. In fact the whole process of constitution making between 1946 and 1959 was an elaborate bargaining pantomime to find equilibrium between the three regions. No wonder the process resulted in the emergence of three major political parties each allied to a majority group.

2.7 The pre-independence restructuring was problematic because Nigeria was never composed of three cultural groups but of hundreds of cultural and ethnic groups competing with the three majority groups. Although Nigeria was profoundly multipolar, the Hausa-Yoruba-Igbo political elites opted to maintain the colonial tripartite structure. It is important to remember that none of the three regions of the First Republic represented a historic political bloc, as there were minority groups in each. Against the recommendation of the Willinks Commission of 1958, the colonial administration refused to create more regions. This refusal heightened the fears of domination of the 'minorities' by the 'majorities'.

3.0 Post-Colonial Restructuring

3.1 It was the military that subsequently succeeded in completely restructuring the Nigerian State. They dismantled the tripartite regional structure, which had become quadripartite with the creation of the Mid West Region in 1963. In 1967, just before the advent of the civil war, the Gowon Military Administration created 12 states from the four existing regions. The move appeared to have been an improvement because it was addressing the correction of the structural imbalances and ethno-regional inequities of the inherited federal structure. In 1976, the Murtala-Obasanjo Administration increased the number of states from 12 to 19; General Babangida raised the number of states to 21 in 1987 and to 30 in 1991 while the regime of General Abacha increased the number of states in the country to 36.

3.2 This restructuring through the multiplication of States has produced a Jacobin effect that strengthened Federal power relative to the powers of the federating units. We should not forget that there was elite consensus that the First Republic collapsed because the regions were too strong and were pulling away from the Centre. Weakening their power base was therefore the logical objective of restructuring. The real issue however was not weakening of the States per se, but the erosion of a counterweight to what became known as the "Federal

Might". Rather than correct the regional balance in the country, the concentration of enormous powers at the centre weakened all political groups that are not in control of the centre. Increasingly, restructuring led to the emergence of a quasi-unitary State which mimics the military command structure.

3.3 This tendency was reinforced with further restructuring through the decentralisation policy of the Babangida regime carried out between 1987 and 1991 with the declared aim of increasing the autonomy, democratising, improving the finance and strengthening the political and administrative capacities of local governments. The number of local governments was increased from 301 to 449 in 1989 and to 589 in 1991 and again to 774 in 1996. Virtually all Nigerians are dissatisfied with the present condition of weak federating units and an excessively strong centre.

4.0 Options for Restructuring

4.1 There are a number of options for restructuring of the Nigerian federation. These include:

- Return to the tripartite regionalism of the First Republic. This is a non-starter as the regions were too large and above all, too uneven. The North alone was much larger than the combined regions in the South.
- Dismantle the 36 State structure and reconstitute the federation along the six zonal structure. Nigeria is a very large country and the six federating units might be too large to cater for a much needed sense of local identity. Some of the zones also clearly lack internal cohesion.
- Maintain the current 36-State structure but take some power and resources from the Federal level and transfer it to the State level. The problem with this option is that the cost of governance has risen exponentially under the 36-State structure and the result has been the lack of resources for development. It is this uneven allocation of available resources to maintain the political structure and its supporting bureaucracy rather than promote development that is largely responsible for the current economic crisis in the country.
- Return to the 1967 12-State Structure which sought to correct the uneven distribution of power between the federal and regional governments.

4.2 In our view, a return to the 12-State Structure is the most viable option for Nigeria at the moment and in the foreseeable future.

5.0 Return to the 12-State Structure

5.1 The distortion of the 12-State structure by multiplying the States to 19, 21, 30 and 36 was done to appease new minority groups that emerged after state creation, to spread federal

largesse more evenly and sometimes for selfish reasons. Today, Nigeria cannot sustain the 36-State structure due to its over-dependence on oil revenues that would continue to dwindle in the coming years.

5.2 The key principle for restructuring Nigeria must, then, be as follows:

1. States must be economically viable and must rely on fiscal resources they generate themselves instead of handouts from the Centre;
2. States must operate in a democratic manner and be run by Chief Executives that are accountable to the people and legislators that are independent;
3. States should have the constitutional and legislative powers to determine their internal structures such as the number of local governments they desire.
4. States must be allowed to determine their own framework and mechanism for the choice of leaders at all levels, which recognizes and combines both merit and the need for fair representation of the broad identities that make up the states – such as geography, ethnicity, religion etc;
5. Balance the distribution of power and fiscal resources between the states and the federation to address the desire for local resource control and the viability of the federation as a whole;

6.0 Constitutional Proposals

(i) A return to the 12-State federal structure of 1967. The 12-States would be the federating units;

(ii) The 12 States shall be re-designated as “Regions” and shall have full control of their resources while paying appropriate taxes to the Federal Government;

(iii) The Regions shall have the powers to create and maintain local governments as they desire;

(iv) Overhaul the Legislative Lists and reassign agriculture, education and health to the Residual List in which States alone would have competence but the Federal Government would share a regulatory role with the States;

(v) Mining should be reassigned to the concurrent list with on-land mining under the federating units and off-land mining under the control of the government of the federation.

(vi) Policing should also be reassigned to the concurrent list with only inter-State crime, cybercrime and international crime under the jurisdiction of the federal police.

(vii) The power of taxation should remain concurrent.

(viii) The Federal Character principle should be retained and strictly and universally observed.

(ix) The current Senate should be merged with the House of Representatives under a unicameral legislature

7.0 Conclusion

This memorandum is a product of years of patient and painstaking consultations with a wide variety of stakeholders across the length and breadth of Nigeria. While it does not claim to cover all the divergent interests of all the political, cultural and geographic groups in Nigeria, we believe these proposals, if accepted, will substantially improve and stabilize Nigeria's Federation, cater for the welfare of a large majority of Nigerians and allocate the nation's resources in an efficient and cost-effective manner.

Signed

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