

Restructuring the Nigerian State: An Evaluation of the El-Rufai Report

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ABSTRACT

The separate enclaves that later became Nigeria following the amalgamation of January 1914 had an idyllic relationship that brings about cordiality in their political systems. But, the present day post-colonial Nigeria is enmeshed in huge controversies of restructuring and this have dominated public debate, with regards to the state of insecurity and fiscal inequality among the federating units in the country. The El-Rufai Report is one of the most recent attempts at addressing the persistent calls for restructuring, with the view to curtailing the spate of insecurity and addressing fiscal inequality among federating units in the country, since after the 2014 National Conference. Using the historical analytical approach and the theoretical framework of the liberal-pluralist theory, this paper examines the strengths and weaknesses of the El-Rufai Report on restructuring of Nigeria. The paper emphasized that; owing to the present political realities the need to restructure the country cannot be over-emphasized. Thus the El-Rufai Report on restructuring should be revisited to extract its areas of strengths for implementation in order to address the lingering issues of restructuring while areas of weakness in that report be either re-articulated or discarded, in order to achieve a mutually tolerable federal system that is not only built on dialogue but also reflect the diverse shades of interests of the diverse people of Nigeria.

Keywords: Federalism, Restructuring, Report, El-Rufia, Nigeria, Liberalism.

INTRODUCTION

Issues pertaining to the present crisis about the structure of the Nigerian state, is obviously embedded in certain historical developments. Schraeder (2004), had observed that there existed a rich mosaic of political systems during the pre-colonial independence era. But, for the agents of colonialism who were instrumental in perpetuating the myth of cultural diversity; the socio-cultural and political as well as economic structure of the Nigerian state would have been a different experience. The separate enclaves that later became Nigeria following the amalgamation of January 1914 had an idyllic relationship that brings about cordiality in their political systems. According to Ajayi and Alagoa (1980), Ikime (1985) and Nsiegebe (2015); Nigeria *abi initio* can be seen as a real political unit and there were fruitful inter-group relations between the people of Nigeria and beyond, until its fraudulent fusion by profit seeking colonialists.

Since after Nigeria became a federal territory and shared powers between the federal and regional governments following the Littleton Constitution of 1954 (Oronsaye, 1996 cited in Nsiegebe 2015); the federation has been deviled by a plethora of structural crisis. The independent constitution of 1960 was not able to shake off the political crisis of structuring which derived its roots from differences in ethnicity, tribalism and religiosity. Koussi (2008) had observed, that ethnicity, tribalism and of course religious differences are the most prominent fissures along with the feeling of marginalization by minority groups in different areas.

Again, the continued feelings of marginalization and economic deprivation by different groups have increased the calls for a revisit of the country's social-political organization. For instance, the Niger Delta, people have insisted on resource control on account of housing the soul item (crude oil) which provides the rents used to run the entire country; this agitation have recently evolved to arms struggle

and have led to the emergence of militancy in that area of the country. Similarly, the South Eastern part of the country has increasingly demanded for cessation on account of political marginalization by the Northerners and South Westerners. This has led to the emergence of a movement group known as the Indigenous People of Biafra (IPOB). This group have been on the fore-front for that struggle. These agitations cut across the country with several other groups like that of Oduduwa People's Congress in the South West etc. These developments have led to incessant calls for the restructuring of the post-colonial Nigerian State.

Successive administrations have made efforts in addressing the fissures that are now deep seated in the Nigerian state, yet none have been able to make any meaningful impact. The Jonathan administration in the twilight of its reign made an ambitious attempt towards restructuring when in 2014 it convened a National Conference on restructuring of the country but that attempt collapsed on its head after it became a political tool against him by his successor during the 2015 presidential election. The present administration headed by Muhamadu Buhari, in response to repeated calls for the re-visit of the 2014 National Conference that was aimed at restructuring the country had set-up a committee led by the Governor of Kaduna State; His Excellency Alh. Nasir Ahmed El-Rufai which has come up with a document on restructuring of Nigeria otherwise known as The El-Rufai Report.

This paper seeks to evaluate the El-Rufai Report with the view to identifying its weaknesses and strengths. The paper is approached in five interrelated parts. The first part is the introduction which just ended. The second part deals with the analytical framework and conceptual explication; the third part briefly explains the nature of the paper and the method adopted while the fourth part by way of evaluation looks at the anatomy of the El-Rufai Report and went ahead to expatiate the weaknesses and strengths of the Report on Restructuring the Nigerian State. The fifth part encompasses the conclusion and recommendations.

Analytical Framework

A federalist system is inherently a system for accommodating differences among people divided by ethnic or cultural affiliations without infringing on the individuals or groups civil and political rights. As such discerning issues that border on the people's calls for self actualization within such a system will be best mirrored within the framework of the **liberal-pluralist theory**.

Although liberalism is an idea committed to freedom as a method and policy in government, it is an organizing principle in society, and a way of life for individuals and community. The liberal-pluralist theory acknowledges actors that exist in society along with their different and conflicting interests. The liberal theories developed in the late 20th century aims to ensure the rights of the minorities, social justice and harmony in liberal societies. Kymlicka (1988), advocated minority rights, their autonomy and the way minority groups can be accommodated in a liberal society with their distinct cultural identity. However, Galston (1991), disagrees with these views; particularly regarding the scope of civil rights of the minority groups and the responsibilities of both majority and minority groups for the sake of social harmony and justice. As such he developed a moral theory of mutualism based on inter-community toleration and constitutionalism. Arguing that toleration is one of the fundamental liberal virtues that a majority government has the responsibility to make arrangement for both members of majority and minority groups, so that they can build inter-personal relation and learn toleration.

Accordingly, Galston maintains that; "properly understood liberalism is about the protection of diversity, not the valorization of choice" (Galston, 1999, p. 329). He insists that in a liberal multi-cultural society, intrinsic goods are not all political goods. There are heterogeneous goods: private, social, familial and even religious. Although these goods can affect the political order, they do not exist for sake of politics.

The liberal-pluralist theory sees society as not only permitting and encouraging the existence of plural goods. It also has multiple sources of authority – individuals, parents, civil associations, faith-based institutions, and the state, among others and no one of which is dominant in all spheres for all purposes, on all occasions. That is why Galston in (2001) contended that;

Pluralist politics is a politics of recognition rather than of construction. It respects the diverse sphere of human activity; it does not understand itself as creating or constituting those activities ex nihilo families are shaped by public law, but that does not mean that they are wholly socially constructed. These are complex relations of mutual impact between public law and faith communities, but it is preposterous to claim that the public sphere creates these communities (Galston, 2001, p. 827).

Drawing from the combination of liberalism and pluralism; Galston says that the liberal-pluralist theory protects legitimate diversity and encourages cultural diversity. The theory assumes that actors in a liberal society do not get torn apart because of their differences; rather they interact in a manner that factors the actualization of the goals of the actors and the society at large. As such the liberal-plural theory relates to the diversity of Nigeria as a political community, wherein various actors, institutions, groups and individuals need to act together with though different interests and views but with common goal of the plural good; through toleration and mutual inclusivity.

Conceptual Explications

The definition of terms for the purpose of clarity is highly imperative in scholarly writings and discourses, especially in the field of social sciences. Apart from reducing or eliminating semantic confusion and enhancing understanding of the subject matter in focus, it also gives focus and meaning to the discourses. Hence a brief explication of relevant concepts in this paper shall be undertaken here:

The Concept of Federalism

Perhaps the starting point for unraveling the concept of restructuring in a political organization is by firstly aggregating what constitutes federalism or what a federal system is and what it is not. The term federalism has been well discussed in existing literature on governmental systems and political systems. As a result, the concept, just like several other concepts in social sciences has gained for itself multiple definitions, all of which tend towards the same conclusions. For instance, Heywood (1999; p.125), refers to federalism as “the legal and political structures that distribute power territorially within a state”. For Akanji (2015), federalism is a system predicated on achieving unity among populations of diverse culture. Drawing from this, he further posited that federalism world over, is a political system for accommodating differences among people divided by ethnic or cultural affiliations. Brozel (cited in Akanji, 2015, p.3), argued that federalism refers to a spatial or territorial division of power between two or more levels of government in a given political system”. For Stevenson (2015), federalism is a type of political system in which legislative power is divided between a central or federal legislature and a number of state or provincial legislatures. But Riker (cited in Akanji 2015, p.3) refers to federalism as a state in which two levels of government rule the same land and people; each level having at least one area of action in which it is autonomous. To Wheare (1963), federalism is the method of dividing powers so that the general and regional governments are each within a sphere coordinate and independent.

Notwithstanding the near-convergence of opinions on the meaning of federalism, there is ambiguity in the area of typology and workings of the federal systems. This is because there are different types of federalism. More so in practice, the use of federalism varies; such variations readily account for the control of political power and economic resources to the advantage of one section or group over another section or group. This is typical of the Nigerian situation. The constitution of the Federal Republic of Nigeria (CFRN), clearly establishes a situation of domination of the central government over that of the sub-nationals. This tends to always aggravate the calls for restructuring or cries of marginalization and deprivation by any section or ethnic group that is not holding or controlling the central power at that time.

Awa, (1973) argued that federalism involves cooperation, bargaining and conflict. And went ahead to posit that there has always been a measure of cooperation between the two levels of government, such cooperation increasing in scope and quality as the federation matures. As much as the federation grows older, the areas in which cooperation is sought and used ought to increase greatly in number, whereas the cooperation in itself is characterized by more understanding and smoothness than in the

initial stages of the union. To this end bargaining assumes more importance as the federation becomes more highly developed. Awa, thus outlined the main determinants for the formation of a federal union as follows; economic resources, political association, fear of attack from outside or inside leadership. However, the history of Nigeria's federalism appears not to have fallen into any of these main determinants of federalism as outlined by Awa and that has become the central factor responsible for the lingering crisis on restructuring.

Restructuring

According to Obiora (2018), restructuring is to change an existing status quo in order to make it more functional. This implies an alteration or the replacement of an old systematic order with a new one to the end that the new system works better. Bello (2017), sees restructuring as the process of increasing or decreasing the number of component parts that make up a system and redefining the interrelationship between them in such a way that the entire system performs more efficiently.

In this sense restructuring is conceived as a change or rearrangement of an existing pattern or structure to ensure more effectiveness and efficiency in the system's performance. The pattern could be holistic or partly. As such, restructuring particularly as adopted in this paper consists of the total or holistic conception of system (political system) overhaul that includes political and fiscal rearrangement of structure.

METHODOLOGY

Due to its nature, the paper adopted the historical analytical approach to analyze data. As such the paper relied mainly on the secondary sources of data consisting of documentary and textual materials from published and unpublished books, journals, magazines, newspapers, internet materials etc. This was done through careful retrieval of needed and relevant information.

Anatomy of the El-Rufai Report

In response to the recent clamour for restructuring in Nigeria, the All Progressives Congress (APC) committee on restructuring was set up in August 2017. The committee was chaired by Nasir El-Rufai, the Kaduna State Governor. The committee was a ten-member committee which was later expanded to twenty-three members. It undertook a research which involved 8,014 people. El-Rufai asserted that Nigerians indicated interests in 24 issues on restructuring raised by the committee following its mandate. These issues are creation of states, merger of states, fiscal federalism, resources between federal, state and local governments, form of government, local government autonomy, type of legislature, people with disabilities, citizenship, ministerial appointment, power sharing and so on (Ugbede, 2018). The El-Rufai report which has four volumes with thirteen recommendations was compiled and submitted on January 25, 2018. These recommendations border on merger of states, derivation principle, fiscal federalism and revenue allocation, devolution of powers, state police, resource control, referendum, judiciary, citizenship, and local government (Ugbede, 2018).

For better understanding of the report, its recommendations are briefly explained hereunder one after the other;

Merger of State: The panel supports the idea that some states should merge if they desire. They proposed a draft bill that will give states the freedom to merge if they desire. This decision is however, left to the party, national assembly and the people (Ugbede, 2018).

Derivation Principle: The panel recommended that the Revenue Mobilization and Fiscal Commission Act should be amended in order to vest it with the power to review the derivation formula periodically and make recommendations to the president who shall present it to the National Assembly for necessary actions to be taken (APC panel proposed).

Fiscal Federalism and Revenue Allocation: In respect to this, the Panel suggested that amendment should be made in the constitution to allow more money to be given to the states and less money to the Federal Government.

Devolution of Powers: A recommendation was given by the panel that the second schedule of part one and two of the constitution should be amended to transfer more powers to the state by transferring some items from the Exclusive List to the Concurrent List (Ugbede, 2018). This would allow both the federal and state governments to legislate on the following ten items, which were hitherto, on the exclusive list:

- Food and drugs
- Fingerprint identification of criminals
- Registration of business names
- Labour matters
- Mines and minerals
- The police
- Prisons
- Public holidays
- Stamp duties

State Police: It was recommended that the state police should be moved from the Executive list to the concurrent list. In this way, police would be the concern of both federal and state governments.

Resource Control (Exploitation and Revenue Sharing of Resources from Oil Minerals): The panel suggested that mining, minerals and oil revenue should go to the state but if they are onshore and not offshore. It went further to suggest that the resources offshore should still be owned by the Federal Government. In line with this, there is a need for constitutional amendment in the Petroleum Act to allow states issues mining licenses; the land use Act, Nigeria minerals and mining Act, the Petroleum Profit Tax Act should also be amended.

Local Government: The Panel also recommended the removal of the names of local councils and their capitals from the constitution. It further recommended that the creation and funding of the Local Government Area should be done by the state and that the local government administration system currently used in Nigeria should be amended in order to allow state to develop and enact laws suitable to them for the administration of local government. It also advocated that only two tiers of government (federal and state) should be recognized.

By this recommendation, the state should be given the power to create and organize their local governments in the manner they consider appropriate.

Referendum: There is no room for referendum in the Nigerian constitution apart from that related to the creation of state. Thus, the Panel recommended that serious national issues or state issues should be decided by a referendum. A referendum is a direct and universal vote in which an entire electorate is invited to vote on a particular proposal. Citizens are given the opportunity to exercise their power by partaking in making decisions that concern them.

Independent Candidacy: This recommendation is geared towards widening the political space by allowing independent candidates to contest elections. This means that qualified candidates are allowed to contest elections without being part of any political party. In order for this recommendation not to be abused, four safeguards were suggested. First, anyone who wants to contest elections as an independent candidate should not be a registered member of a political party at least six months before the date of election. Second, his/her nominators should not be members of any political party. Third, independent candidates must pay a non-refundable fee to INEC whereas candidates sponsored by political parties pay to their parties. Fourth, the candidate must meet all requirements by the constitution and any other formal body. The committee posits that independent candidacy will make political parties more honest.

Citizenship: The panel recommends that local government or state of origin should be replaced with state of residence because it is discriminatory. It proposed the amendment of the Federal Character Commission Act to allow the people living in a place to be considered as indigenes (APC panel proposal).

Judiciary: The panel proposes the creation of state judicial council that will appoint and discipline judges in a state while the National Judicial Council does the same at the federal level. Also, the panel recommends the creation of state court of appeal.

Strengths of the Report

Firstly, the recommendation on devolution of power appeals to the interests of all the calls for restructuring. The idea of moving some items from the Exclusive List to the Concurrent List is a worthwhile suggestion because it would give the states more power to legislate over more issues. The whopping 68 items on the Exclusive List and the mere 32 items on the Concurrent List of Nigeria

seem rather awkward for a federal state. According to Kipnetich (2001), devolution of power is fashioned to “create a political environment in which power to access political, economic and social resources is distributed between the central government and lower levels of government”. To him, devolution of power offers a fairer political ground, protects human rights, ensures check on the central power and prevents violence among rival groups in the state. Nigeria, though a federal state, concentrates so much power in the federal government and this has made a mockery of her federalism. It is a mockery of federalism because other levels of government depend so much on the federal government in a manner that depicts Unitarianism. Thus, Nigeria needs a platform that would give more power and freedom to the state governments and the people so as to experience the bliss of federalism.

Concomitantly, money is very vital in running any organization, including the state, as such the recommendation on fiscal federalism and revenue allocation is key. The notion to allocate more money to the states and reduce the allocation of the federal government is great. Allocating more money to the states would help substantiate the proposed increase of power to states because money gives power essence. Thus, the devolution of power alongside the fiscal federalism and revenue allocation will largely address some political realities in the present day post-colonial Nigeria.

Furthermore, allowing citizens to make decisions on serious national issues through referendum is another plausible recommendation. The Nigerian Constitution allows referendum only in regards to the creation of states. The El-Rufai report recommends an expansion, to include important national issues. Quinn (n.d.) states that; a referendum is essential to ensure political support for certain difficult decisions and sustainable proposals for the resolution of long lasting conflicts. Adopting the use of referendum, in a free and fair way, would help resolve the pending issues that have bedeviled the present day post-colonial Nigeria.

Weaknesses of the Report

The El-Rufai Report however is not amenable to certain weaknesses. There are loopholes in the report that may defeat its aim of achieving the type of federalism which will conduce to mutualism, toleration and promote socio-economic and political development. The report has sections that strongly oppose the unity, peace and the federalism which it seeks to preserve.

For instance, there is a fault in the methodology of the report. In 2018, the population of Nigeria was projected to be over 195 million, making it the 7th most populous country in the world by the Nigeria population projection index. But the Report claimed that 8,014 people were engaged in the process of the research that gave birth to the report. Thus, the report is based on a research that engaged 8,014 people out of over 195,000,000 people. The sample size may not have produced the true reflection of the people’s desire owing to its smallness in relation to the population size. Moreso, the constituents of the sample size were not in anywhere selected or elected representatives of the ethnic groups and regions that make up the present day post-colonial Nigeria. In fact, it is so small that any data generated must not be used as regard to Nigeria. The research is far too unrepresentative and thus, its findings are a case of “extreme” overgeneralization. A sample size that is far less than one percent of the population size cannot yield findings that are representative and real. This is a huge dent on the report.

Furthermore, the recommendation on resource control which says that revenue from mining, minerals and oil should go to the state if it is onshore and to the federal government if it is offshore is an ambiguous statement. This recommendation has received strong opposition especially from the Niger Delta States. The questions that would have clarified Nigerians were left unanswered by the report. Questions such as; what does offshore mean? Is offshore any water body, river or sea? Or is it a water body of certain depth? The report is silent on the definition of what it considers as offshore and onshore areas.

Lavis (2018), had stated that water-bodies have been classified into four types in respect to their depth. That is waters below 305 meters of depth as shallow water while waters that are from 305 to 1524 meters deep are considered mid-water. While waters of 1524 to 2133 meters depth are Deepwaters and those with depth from 2134 to 3658 meters are called Ultra Deepwater. In connection to this report, failure to define the depth or definition of water referred to as offshore makes it unclear and cast a shadow of doubt in the sincerity of the intentions for resource control by the El-Rufai Report. If offshore does not include shallow water (less than 305 meters of depth) then there is no

course for alarm because Nigeria hardly has water-bodies that exceed the shallow water. For instance, River Niger is only more than 50 meters (Mabogunje, N.D) while Rivers Benue is merely 7.82 meters (Aho, Utser, and Isikwue, 2014) and the aesthetic River Ethiope ranges from 1 to 20 meters (Iloba, 2017) are all shallow waters. With this classification, the states will own the resources in their land and shallow water which in this context is onshore. On the other hand, if offshore refers to water-bodies such as rivers, seas, etc, then the Report draws a battle that may eventually destroy the weak unity of Nigeria. This is because some of the oil producing states have more of their resources offshore. For example, Akwa Ibom and Ondo State have over 70 percent of their mineral resources offshore; this implies that if the recommendation is taken, the state would give a whopping 70 percent or more of their resources to the federal government. This will not give room for true federalism; rather it will exacerbate the feeling of resentment and exploitation in the states in whose territories the resources are mined. To this extent, the claim of resource control as recommended in the El-Rufai Report is not tenable.

Another weakness to the Report is the issue of independent candidacy which though seems good as suggested by the Report. It aims to make political parties more honest. But, in a situation where the electoral body is almost overwhelmed by the number of candidates that contest each election owing to the number of registered political parties that sponsors these candidates; it becomes fool hardy to further throw upon that space. This may lead to unmanageable size of candidates for each election and may ultimately impign the quality of the elections and derail the electoral process. Also, the safeguards set one of which is that an independent candidate should not be a registered member of any political party at least six months before the election date and the other, that his or her nominators must not be registered members of any political party. There are visible loopholes in the safeguards. The safeguards seem more like mere requirements that may easily be met with exigencies of ambition. On the above premise, it is logical to submit that rather than making political parties more honest, independent candidacy would bring confusion to citizens, increase the inefficiency of the electoral body and make people indulge in more sophisticated manipulations to qualify as independent candidates.

A further weakness of the El-Rufai Report is he use of “serious national issues” for referendum without being explicit. This may raise more problems than it intended to solve. This is because there is no clarity of what the issues that require the use of referendum are. What constitutes the ‘serious national issues’ is obviously ambiguous. The issues may vary from person to person or group to group which may bring about confusion instead of agreement. Thus, the ‘serious national issues’ should be listed out to prevent confusion and/or chaos.

CONCLUSION/RECOMMENDATIONS

Having been enslaved in a colonialist imposed federalism that has the features of Unitarianism, over several decades now the country needs to adjust to a more definable structure that conduces to unity in diversity and development. And this can only be achieved through restructuring. The El-Rufai Report needs an overhaul to ensure efficiency in achieving the restructuring agenda. Every Nigerian has a crucial part to play in this regard. As such, this paper, recommends that the El-Rufai Report be made open through a review process that will allow for wider inputs by the diverse groups and people of the country in order to make it the people’s report. This will ultimately lead to its speedy implementation.

Resource control should be totally under the control of the states (federating units) that produces such resources, also such federating states should be in charge of the natural resources within their territories. However, a certain percentage should be remitted to the federal government as taxes.

The idea of ‘Independent Candidacy’ should be completely discarded and replaced with close supervision and sanction of political parties to ensure more honesty.

‘Serious national issues’ that require referendum should be itemized and listed, in order to reduce or eliminate suspicions. However, in all, Nigeria needs a genuine dialogue that would involve all actors with the view to reaching a compromise that will be favourable to all. Only then can there be restructuring in practice.

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