



Buhari Presidency and His Federal Character “Virus”: An Exposition of the Composition of the Federal Character Commission Board

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ABSTRACT

There are two major schools of thought on federal character. These are the Constitutional-Integrative School and the Discrimination school. The former which is anchored on the legal frameworks posits that the Constitution made provisions where no dominant entity should dominate any state, ethnic group, religion or section in term of appointments recruitment and promotion. On the other hand, the latter argues that this policy is a design to perpetuate the dominance of the minority elites and their exploitation, exclusion and oppression of the majority. Nigeria is a divided nation and has developed affirmative action programmes aimed at addressing severe horizontal inequalities that exist between and among different regions and ethnic groups. Key reforms included the adoption of the federal character principle to ensure the equitable representation of different groups in all tiers of government, and the formation of the Federal Character Commission (FCC) to monitor and enforce its implementation. Relevant published texts such as articles, books and reports provided the leverage for the study. While the FCC has raised hopes on redressing historical imbalances in Nigeria’s civil service, this paper finds that little progress has been made over time. The workings of the FCC remain plagued by legal and administrative constraints, chronic underfunding, and political dependence. These issues will need to be addressed if the FCC wants to gain the legitimacy and power needed to fulfill its mandate. The study concludes by positing that lack of understanding of the Constitution and the FCC Act have made their application to be toxic and “virus” in application and needs better understanding among scholars.

Keywords: Federal Character, Federal Character Commission, Nigeria, Horizontal Inequalities, Federal Character Commission Act & The Constitution, Inclusiveness, Inter-Ethnic Conflict & the 1999 Constitution

INTRODUCTION

Since attaining political independence in 1960, Nigeria has experienced recurrent tensions due to the severe horizontal inequalities that exist between different and among regions and ethnic groups. After the end of the Biafran civil war, successive regimes embarked on a reform process intended to address the sensitive issues of inequality and ethnic domination. Key reforms included the adoption of the federal character principle to ensure the equitable representation of different groups in all tiers of government, and the formation of the Federal Character Commission (FCC) to monitor and enforce its implementation. The workability of the Federal Character principle has come under scrutiny lately during the screening and confirmation hearing of the 38 members of the Federal Character Commission. This is a modest

attempt to elucidate and provide more explanation on a topical national issue often misconstrued by many.

On Tuesday, June 2, on the floor of the Senate, members made a feeble effort to rationalize the perceived sectional appointment of administrative and political heads of the Commission. The bone of contention is the ‘un-federal’ decision of President Muhammadu Buhari to appoint two ‘northerners’ as chairman and secretary of the FCC. The chairman, Hajia Fareedah Dankaka hails from Kwara State while the incumbent secretary is from Taraba State.

While the FCC has raised hopes on redressing historical imbalances in Nigeria’s civil service, this paper finds that little progress has been made over time. The workings of the FCC remain plagued by legal and administrative constraints, chronic underfunding, and political dependence.

Flowing from the above, we can isolate two germane issues. First, Senators misconstrued the application of the principle of federal character as it relates to the appointment of 38 members of the Commission as prescribed under Section 153 of the 1999 Constitution of the Federal Republic of Nigeria. Specifically, the Third Schedule, Part 1C of the Constitution says the Commission shall comprise of a chairman and representatives of each state of the federation and the FCT.

Besides the constitutional provision quoted above, the FCC was also midwife by a separate law. The Federal Character Commission Establishment Act of 1995 provides in Section 9 for the office of the Secretary to the Commission. Under this Act, the secretary is not a member of the commission; he is in fact, a staff of the commission; he functions as the head of the commission’s secretariat; and he is appointed by the President.

The above explanations are clear, unambiguous and ought to be properly interpreted. But politicians, including lawyers, may choose to be guided by politics mixed with emotion. These issues will need to be addressed if the FCC wants to gain the legitimacy and power needed to fulfill its mandate.

Contextualizing Federal Character

There are two major schools of thought on federal character. These are the Constitutional-Integrative School and the Discrimination school. Constitutional-Integrative School anchored their thesis on the CDC document of 1977, 1979, 1989 and 1999 Constitutions (See Section 14 (3 to 4) of the 1999 Constitution. This view posits that these documents made provisions where no dominant entity should dominate of any state, ethnic group, religion or section in term of appointments recruitment and promotion.

As defined by the Constitution Drafting Committee (1977: 22), the federal character principle is:

The distinctive desire of the people of Nigeria to promote national unity, foster national loyalty and give every citizen of Nigeria a sense of belonging to the nation (notwithstanding the diversities of the ethnic origin, which may exist and which it is their desire to nourish and harness to the enrichment of the Federal Republic of Nigeria).

The 1979 Constitution amended the 1976 definition by dropping the passage in brackets and substituted a reference to “a sense of belonging to the nation as expressed in Section 14 (3) and (4) of the 1979 Constitution”. Section 14 (3) clearly spelt out the modus operandi of the Federal Character principles as follows:

The composition of the government of the Federation or any of its agencies be carried out in such manner as to reflect the Federal Character of Nigeria and the need to promote national unity and also to command loyalty thereby ensuring that there shall be no predominance of persons from a few ethnic or other sectional groups in that government or any of its agencies (The Constitution of the Federal Republic of Nigeria, 1979).

Bello (2012), Bello (2018), Brown, Langer & Stewart (2012)& Oloja(2017) add that in pursuant to this provision, various other provisions were made in the Constitution to guarantee that the federal character principle is operative. This various provisions enjoins that the conduct of the affairs of central, state and local government bodies shall be carried out in such manner as to recognize the diversity of the people within its areas of authority and the need to promote a sense of belonging and loyalty among all peoples of the federation. The implication of this provision, the 1979, 1989 and 1999 Constitutions for federal bureaucracy in Nigeria is interesting.

As a result of the above, a range of constitutional changes was introduced in the years following the civil war with the specific aim to promote 'national unity' and political stability (e.g. Diamond, 1982; Mustapha, 2007& 2009, Suberu, 2001 &Ukiwo, 2020). These included a presidential system with a president who required the majority of the votes and at least a quarter of the votes in two-thirds of the states, the requirement that political parties had national character, and the introduction of the 'Federal Character Principle', requiring the fair and equitable representation of different ethnic and regional groups in the composition of all tiers of government. Most of these constitutional changes and rules were maintained in subsequent Republics and military regimes.

From the afore stated, the federal character principle can be regarded as a direct approach to redress horizontal inequalities between different groups in society. Such an approach targets specific groups directly and associates a person's group identity with a certain benefit. Affirmative action policies (e.g. quotas) provide certain positions in government, public service, educational institutions etc. based on one's belonging to a marginalized group (Brown, Langer, & Stewart, 2012, Eme, Nwoha & Onyishi, 2014.). Direct policies are often the most effective way to correct imbalances, but they may also have adverse consequences. These include a hardening of group identities as these identities become the basis for entitlements. This has occurred in India (Heyer & Jayal, 2012), and arguably in Nigeria as well (Suberu, 2001, pp. 111–140). Nevertheless, direct policies can still contribute to peace, if they succeed in ensuring that all groups feel included in the country's governing system.

Discrimination school on the other hand argued that this policy is a design anchored on ideology to perpetuate the dominance of the minority elites and their exploitation, exclusion and oppression of the majority.

In practice this means that in the appointment, promotion and postings of the federal public servants, every state, ethnic group religions or any other sectional group should be represented. Thus, the criterion of membership of the federal bureaucracy is heavily skewed in favor of representation.

Representation of states, ethnic or any other sectional group especially religious groups in the composition of federal bureaucracy has, thus, superseded recruitment on the basis of knowledge and technical qualification as determined through a competitive examination. The situation is not different when it comes to promotion and postings. There are instances where capable, long serving and loyal federal civil servants have been denied promotion, precisely because the quota for their states in these posts has been filled. Under such situations, one's erstwhile subordinates usually become one's superiors overnight. Postings of federal civil servants in some cases have followed the federal character principle. Every state would like to see its citizens in all the organs or agencies of the federal bureaucracy. Sometimes, this representation is seen in absolute numbers not just between states in the federation but also between the North and South as collectivities. In fact, the issue of representation based on the federal character principle has unwittingly degenerated into verbal and sometimes acrimonious exchanges between the North and the South of the country (Okoli, 1990, Mustapha, 2009; Oloja, 2017, Daily Sun, 2018 & Ojeme, 2018).

Paradoxically, the federal character principle has succeeded in institutionalizing North-South dichotomy rather than integrating it. To those from the Northern parts of the country federal character is synonymous with quota system and means therefore a proportional absorption into federal institutions. To those from the Southern parts of the country, it means an attempt by the "North" to infiltrate into areas which they hitherto regarded as "theirs" by right (Suberu, 2001 & Dagaci, 2009). The federal character principle carried an inherent tug-of war between the claims of belonging to the nation and the claims of locally recognized diversity. It is the insisting on equal representation and individual rights that will rock the boat

of national integration. If we are to accept the intent of the concept that it carries an unambiguous and unchallengeable mandate for national integration, then the present provision has to be completely reexamined. (Okoli, 1990:5).

The Federal Government (1986) tried to resolve the problems created by the constitutional provision of federal character in the polity. The Report of the Political Bureau had argued thus, the constitutional definition of Nigerian citizenship should, as a matter of urgency, be studied with a view to removing the difficulties and anomaly arising from the interpretation of the relevant Sections of the 1979 Constitution. As Ayoade (1998) rightly observed, going by the constitutional definition of Nigerian citizenship, a dangerous dichotomy has developed between Nigerian citizenship and nativity of a state similar to the situation in the colonial period when Nigerians living outside their states of origin were regarded as native foreigners. He noted that this category of Nigerians did not enjoy full citizenship rights in those states to which they migrated.

Thus the operationalization of the federal character principle tended more to differentiate and discriminate rather than to integrate the populace.

That the principle of federal character tended to differentiate rather than integrate is not by accident, it is by design. This position supported Heineken (1984), Olugbemi (1987) and Suberu and Diamond (2004:27) when they implied that federal character as defined and pursued by the 1979, 1989 and 1999 Constitutions cannot succeed in integrating the people because it was an ideology of the minority ruling class aimed at protecting their interest. According to them, the doctrine holds a lot in stock for the economically dominant class to the exclusion of the masses from the political process in the country. Firstly, it helps to divert attention from the internal economy where the mass of the people wallows in abject material want. Second, it helps to legitimize the dominant and exploiting class position in the society. Thirdly, it helps to prevent mass mobilization for development and by implication contributes in no small measure in maintaining an oppressive social order. The various components of the petty bourgeoisies namely the top echelon of the armed forces, civil service, politicians and business people compete amongst themselves for the share of the state property and privileges. As Olugbemi, (1987:84; Otite, 1990:112 & Ojo, 2006:122&Agabi, C., &Iloani) observed:

It is this intra-class factionalism within the economically dominant class over the state resources that the federal character as it is, attempts to give cover. In other words federal character by and large serves the economically dominant class that controls the state. This it does by giving explicit recognition to the essentially composite nature of the federation and provides ambiguous recipe for welding the federation into one (Bello, 2012:9).

Supporting the above thesis, the federal civil service as a foremost institution, obviously, designed to be a model of the federal character principle and a torch bearer in the application of the principle is gradually becoming one of the worst culprits of the misdemeanor. Recent happenings in the Commission show this. Mustapha (2009, p. 574) perceived the federal character principle and the FCC as 'unavoidable necessities forced on Nigerian national life by the cleavages and inequalities that have scarred the nation'. His critical investigation of the workings of the FCC in the first decade after its establishment was not only notable for pointing out the serious challenges and shortcomings of the FCC in implementing its mandate, but also because of its 'activist' streak by emphasizing that every segment of Nigerian society, including governments, communities, families and individuals, had 'a responsibility to contribute to eradicating structural inequalities' (Mustapha, 2009, p. 575). Moreover, Mustapha's research emerged out of his profound interest in improving our understanding of how to systematically and constructively tackle pervasive horizontal inequalities in Nigeria and beyond.

The federal character principle is, arguably, one of the most controversial provisions of the Nigerian Constitution since 1979. It has been described in both savoury and unsavoury terms. Lagos-based lawyer Fred Agbaje believes the concept of federal character is the bane of Nigeria's development, as it often

encourages discrimination against qualified persons on the basis of their origins. Agbaje (1989 & 1998) says,

It is just ironic that such a nebulous, retrogressive concept that does not add value to the growth of Nigeria, but rather has been the bane of development in this country, could find its way into our constitution. Any foreigner that picks up our Constitution and sees those kinds of retrogressive clauses would just frown on our cerebral disposition. But there are also many who feel that the principle of federal character is needed to protect the minorities against the domineering tendencies of the majority groups (Obia,2014:17).

In reality, however, for Nigeria as presently constituted, the concept of federal character seems to be one of the greatest tests of the country's ability to accommodate and safeguard its diverse peoples against domination. Ironically, the country appears to be experiencing a terrible failure of this test under the current dispensation for instance, at the FCC, a key institution established to be society's bulwark against inequity. Many believe the arbitrariness in the commission has been allowed to run riot for too long. There are concern that if nothing is done urgently to stop the anomalies, they may give rise to a wider malaise in the country as they begin to have a life of their own. This situation is, certainly, fraught with unimaginable danger for the whole country. Going forward, the FCC, over the years, has evolved guidelines and measures to shape its operations. We shall come back to these soon.

The kernel of this discourse is the misinformation by politicians and journalists. This is against the background that in March 2017, the president had appointed Mr. Muhammad Bello Tukur (from Taraba) as the Commission's Secretary and Chief Executive Officer and the Senate recently confirmed Fareedah Dankaka (from Kwara State) to chair the Federal Character Commission. So, the FCC that is established to "promote, monitor and enforce compliance with the principles of proportional sharing of all bureaucratic, economic, media and political posts at all levels of government" already has a leadership that is sectional." The key objective of the current paper is exactly to investigate whether the FCC, 20 years after its establishment, has been able to contribute to resolving and/or mitigating 'the nagging national problem of representation'

Has the President violated any legal or moral code in appointing the chairman from Kwara when the seating secretary hails from Taraba? The position of this paper is NO. The two offices are not on the same platform so there is no juxtaposition. The office of chairman is a creation of the Constitution whereas that of the secretary was created by the FCC Act. That is why one state can produce the chairman and still produce a member of the Commission. It is therefore awkward to argue that the two must be viewed from the prism of the federal character principle. That amounts to subtly questioning the judgment and authority of the President.

METHODOLOGY

The paper adopted a descriptive analytical method and relied essentially on researches conducted across the country with emphasis on the reported cases of abuses of FCC principles, law and marginalization. Relevant published texts such as articles, books and reports provided the leverage for the study. The materials were assessed with a view to bringing to the fore the demographic implications of these abuses and its effects on ethno-cultural and political developments in Nigeria.

The Federal Character Commission Mandate and modus operandi: the Buhari Experience

The Federal Character Commission (FCC) is a Federal Executive body established by Act No 34 of 1996 to implement and enforce the Federal Character Principle of fairness and equity in the distribution of public posts and socio-economic infrastructures among the various federating units of the Federal Republic of Nigeria. The federal character principle was first included in the Second Republic constitution, but is now enshrined in provisions 14.3 and 14.4 of the 1999 Constitution. It requires that there is 'no predominance of persons from a few states or from a few ethnic or other sectional groups' in

the federal government and its agencies. Similarly, state governments and local government councils and their agencies must reflect the diversity within their areas of authority.

One of the Federal Character Commission duty is to work out an equitable formula, subject to the approval of the President, for the distribution of all cadres of posts in the civil and public service of the Federation and of the State, the armed forces, the Nigerian Police Force and other security agencies, bodies corporate owned by the federal or a State Government and Extra-Ministerial Departments and parastatals of the Federation and States.

The Commission is composed of a chairman, 37 commissioners representing the 36 states and the Federal Capital Territory (FCT), and the Secretary of the Commission (FCC, 2016). The Chairman, commissioners and secretary are appointed by the President upon nomination by the state government and confirmation by the National Assembly. The FCC is supported by civil servant staff responsible for data gathering and monitoring, administration etc. The FCC has established 24 committees to monitor recruitments into about 600 ministries, departments and agencies (MDA) of the Federal Government. The state branches of the FCC monitor the states and Local Government Areas (LGA).

The distribution formula developed by the FCC is strictly based on geographical areas including geopolitical zones, states, local government councils and electoral wards, rather than ethnicity, religion and demography. Geopolitical zones are not formally recognised as administrative units in the constitution, but they are well-known and used, including by the FCC. Nigeria counts six geo-political zones: North-Central, North-East, North-West, South-East, South-South, and South-West. The zonal level is used when the number of employees in an institution is small. In this case, each zone should count for between 15 and 18% of the employees. However, no state should dominate in a zone. The approved formula for equitable distribution across states is that each state should produce 2.75% of the total work force, with an acceptable range of 2.5% to 3%. The FCT should take up 1%. At the state level, the ranges are dependent on the number of LGAs in the state. At the LGA-level, the ranges are dependent on the number of wards. At all geographical levels, exceptions exist for junior staff, which may take up 75% of a specific 'catchment area' or the locality where the institution is based.

The nomination and confirmation of Dr. Muheeba Dankaka as chairman of the Federal Character Commission (FCC) by President Muhammadu Buhari refreshed the controversy over the president's perceived non-application of the principle of federal character in his key appointments.

The President of the Senate, Dr. Ahmad Lawan, had on March, read the president's letter seeking Senate approval for the nomination of Dankaka and 37 others as chairman and members of the commission, instituted by Section 14(3) of the 1999 Constitution as amended, to ensure that no section of the country dominates appointments to the federal government and its agencies.

Specifically, the section specifies:

"The composition of the Government of the Federation or any of its agencies and the conduct of its affairs shall be carried out in such a manner as to reflect the federal character of Nigeria and the need to promote national unity, and also to command national loyalty, thereby ensuring that there shall be no predominance of persons from a few states or from a few ethnic or other sectional groups in that government or in any of its agencies."

FCC is saddled with the responsibility of enforcing this constitutional provision. Dankaka's nomination is said to be in conflict with this provision of the constitution on the ground that she is from Kwara State, Northern Nigeria, she ought not to have been so nominated because the secretary of the commission, Mr. Muhammad Tukur, is from Taraba State also from the North.

The critics' argument is that this pattern of appointment negates the constitution, the enabling law and convention.

They refer to Section 4 of the enabling law, Federal Character Commission Act No 34 of 1996, to buttress their argument. It states:

"Where the number of positions available cannot go round, the states of the federation or the Federal Capital, the distribution shall be on a zonal basis. But in the case where two positions are available, the positions shall be shared between the northern and southern zones"(FCC,1996).

For them, the two principal positions are the chairman and secretary of the commission and by the spirit and letters of the law, they ought to be distributed between the North and the South. They also summon convention as their witness, saying past administrations have maintained a balance in appointments between the two principal geo-political zones. According to them, a brief history of the leadership of the commission shows that from 1996 till date, there have been lopsided appointments of the executive chairmen of the commission.

For instance, Alhaji Adamu Fika from Yobe in North-east; Alhaji Bello Kofabai from Katsina in the North-west and Professor Shuaibu Oba Abdul Raheem from Kwara in the North-central, have held the position since 1996. In acting capacity, the chairmanship of the commission has been held by Alhaji Muhammadu Ari-Gwaska from North-central; Alhaji Ibrahim Funtua, from Katsina in the North-west; Alhaji Muhammad Alkali from Kebbi in North-west; Dr. Shettima Bukar Abba from Borno in the North-east; Mr. Abayomi Sheba from Ondo in the South-west, and Ambassador Shinkafi from Zamfara State, the current acting chairman whose tenure ended on April 20, 2020, after two terms in office is from the North-west.

Ajike(2020) gathered that during the period under review, the position of the substantive secretary was held by southerners, including Mr. A. O. Effenga from South-south; Mr. O. P Emerhan from South-south; Prof. Francis Durosinmi-Etti from South-west; and Mr. Rex-Ogbuku from South-south. In acting capacity, Mr. David O. Fakeye from South-west and Mr. Jonas C. Umeh from South-east have also held the position.

The incumbent secretary is Tukur, who was appointed by Buhari in March 2017 for an initial tenure of four years, which would end in February 2021, is from Taraba State in the North-east.

The implication, it was learnt, would be that the chairmanship position should, going by the principle of federal character and as stated in the constitution, automatically, go to the southern part of the country. This North-South balance had been established by the presidency of Chief Olusegun Obasanjo, Alhaji Umaru Yar'Adua and Dr. Goodluck Jonathan who had appointed northerners as chairmen and southerners as secretaries.

The Senate on June approved the nomination of Muheeba Farida Dankaka as Chairman of the Federal Character Commission. Thirty-six other persons were also confirmed as members of the Commission. President Muhammadu Buhari had recently, wrote to the Senate seeking confirmation of nominees to serve on the Federal Character Commission. Buhari's request was contained in a letter which was read by Senate President, Ahmad Lawan, during plenary.

The President had explained that the request for the confirmation of the appointments was in accordance with the provisions of Section 154(1) of the Constitution of the Federal Republic of Nigeria 1999, as amended. During plenary, the Senate considered and approved the report of the committee on Federal Character and Inter-Governmental Affairs, presented by Senator Danjuma La'ah (Kaduna South). Those approved for appointment by the Senate to serve on the Federal Character Commission are: Muheeba Dankaka, Chairman; Henry Ogbulogo, Abia; Salihu Bello, Adamawa; Obonganwan Dborah Daniel Ebong, Akwa-Ibom; Ibeabuchi Uche, Anambra; Mohammed Tijjani, Bauchi; Tonye Okio, Bayelsa; Silas Mfa Macikpah, Benue; Abba Ali Monguno, Borno; Nsor Atamgba, Cross River; and Moses Anaughe, Delta respectively. Others are: George Afamefuna Ossi, Ebonyi; Imuetinyan Festus, Edo; Sesan Fatoba, Ekiti; Ginika Florence Tor, Enugu; Hamza Mohammed, Gombe; Diogu Uche, Imo; Lawan Ya'u Roni, Jigawa; Hadiza Usman Muazu, Kaduna; Mohammed Awwal Na'iyah, Kano; Lawal Garba, Katsina; Abubakar Atiku Bunu, Kebbi; Idris Eneye Bello, Kogi; Abdul Wasiu Kayode, Lagos; Alakayi Toro Mamman, Nasarawa; and Suleiman Barau Said, Niger. Also appointed are: Abiodun Isiaq Akinlade, Ogun; Olufemi Omosanya, Ondo; Adeoye Abdularazaq Olalekan, Osun; Adeniyi Olowofela, Oyo; Stephen Jings, Plateau; Wokocha Augustine, Rivers; Abdullahi Taminu Tafida, Sokoto; Alhaji Armaya'u Dauda Abubakar, Taraba; Jibril Maigari, Yobe; Sani Garba, Zamfara; and Adamu Mohammed Sidi-Ali, Federal Capital Territory.

Similarly, the Senate approved the nomination of Frederick Ekwem as Commissioner representing Imo and Abia, as well as Jonah Madugu as commissioner representing Benue, Nasarawa, and Plateau states respectively. The approval followed a report of the committee on Establishment and Public Service which

was presented by the chairman, Ibrahim Shekarau (Kano Central). However, before the confirmation of the nominees, Abaribe Enyinnaya (PDP Abia) drew the attention of the senate to a memo he submitted to the committee on the need to ensure equity in the appointment of officers of the commission. He said it was not in the spirit of equity and fairness for two of the nominees for the position of Chairman and Secretary to come from the North. Mr Abaribe noted that appointments to the two positions have always been rotated among the north and south geopolitical zones of the country.

The pan-Yoruba, Igbo, South—south & Middle Belt socio-political organisations, Afenifere, Ohaneze and Ijaw added their voice and faulted the composition of the Federal Character Commission (FCC), alleging that it was skewed in favour of a particular geo-political zone.

In a statement by its National Publicity Secretary of Afenifere, Yinka Odumakin, the group said it would not allow President Muhammadu Buhari to get away with yet another infraction at the FCC. It, however, urged the Senate not to approve the FCC chairmanship nominee, Farida Dankaka. The statement read in part:

Though it is now a familiar pattern, Afenifere will not allow President Muhammadu Buhari to get away with yet another infraction at the Federal Character Commission (FCC). The FCC, according to the Constitution of the Federal Republic of Nigeria is meant to be the custodian of the principle of federal character and is saddled with the responsibility of ensuring that all federal agencies and parastatals in Nigeria respect and adhere to this principle. The Federal Character Commission by the nomination of the new chairman would have a Chairman from North (Kwara) and Secretary from the North (Taraba) in violation of Section 4 of the subsidiary legislation. The section states that ‘Where the number of positions available cannot go round the states of the federation or the Federal Capital, the distribution shall be on zonal basis. But in the case where two positions are available, the positions shall be shared between the northern and southern zones. This has always been the tradition; that Chairman and Secretary are from the North and South respectively. For some reasons, past governments, including Obasanjo and Jonathan, had appointed northerners as chairmen and southerners as secretaries (Olatunji, 2020).

This fear has history since 2015. As Eme (2020) and Eme & Onuigbo (2015 & 2019) have documented that a breakdown of the ministerial list of the Presidency shows that 20 (54.05%) appointments were from the North and 17 (45.94%) from the South. On zonal basis, the picture shows: Northwest-8 (21%); North East-6 (16.21%); North-Central-6 (16.21%); South-South-6 (16.21%); Southeast-5 (13.51%) and South West-6 (16.21%). From the foregoing, there is no doubt that, the pendulum of the cabinet swings to the North. Two major reasons accounted for this. One, of the 36 states, 19 are located in the North while 17 are in the South. Structurally, the North has an inherent advantage over the South. Two, this advantage was further consolidated with President Buhari himself, a northerner from Kastina State in the Northwest, holding unto the petroleum portfolio.

Furthermore, it is also inferential from this statistic that, of all the six geopolitical zones, the Northwest where President Buhari hails from tops the list. Again, this can be explained by the fact that, the zone has seven states which is higher than the figures for the rest zones. While the Southeast has five states other zones have six states each. Thus, with seven states plus the president’s additional portfolio, the Northwest could not but top the ministerial list. In any event, the president cannot be said to have transgressed the principle of federal character which in the main, suggests equity and not equalization.

Second, the president is also expected to observe the federal character principle in appointing ambassadors and High Commissioners. In his first term, 93 of such appointments were made, 46 non-career officers and 47 career officers. Of the 46 non-career officers, 27 (58.69) were from the North, 18 (39.13%) were from the South and one (2.17%) from the FCT. Split on zonal basis, the distribution is as follows: Northwest-12 (26.08%); Northeast- seven (15.21%); North-Central- eight (17.39%); South-south – six (13.04%); Southeast- five (10.87%); Southwest- eight (15.21%) and FCT-one (2.17%). Of the 47 career officers, 26 (55.32%) appointees were from the North, 20 (42.55%) from the South and one (2.13%) from the FCT. Laid bare on zonal basis, the Northwest clinched nine (19.15%); Northeast-10 (21.28); North-Central- six (14.89); Southeast- six (12.77); South-south-7 (14.9%); Southwest- seven (14.89) and FCT- one (2.17).

In this instance also, the North still had an edge over the South on account of the inherent structural imbalance of the federation in favour of the North, the concession of the FCT slots to people of Northern extraction and the fact that the constitution does not forbid the president from dispensing his patronage prerogative .

The Northwest's lead and the Southeast and south South look, are sustained by the structural imbalance which the number of states in both zones at seven and five states respectively.

Third, of all the appointments made by President Buhari, the appointment of the heads of the security agencies generated the greatest heat. In this regard, a total of 17 appointments were made. Of this, 13 (76.47%) went to the North while the South got paltry five (23.53%). A further analysis shows that the North West secures five (29.41%); North East-six (35.29%); North-Central- two (11.76%); South-South-two (11.76%); South East- zero and South West- two (11.76%). No doubt, there is obvious breach of the principle of federal character in this class of appointment.

Though the president had argued that, seniority was taken into consideration in appointing the service chiefs, however this ought not to have handcuffed him in striking a national balance in appointing the heads of other security agencies where seniority does not count.

Another area of appointment that has come in focus is the appointment of presidential aides- special assistants, special advisers, personals and so forth. Of the 101 of the appointees, official data revealed that 60 were from the South while 41 were from the North

Similarly, the South had an edge over the North in the appointment of the heads of federal parastatals and agencies. Also, and apparently, the composition of the boards of the federal parastatals and agencies was accorded national spread as it is one way the ruling class often spreads and entrenches itself with a view to winning future elections.

As such, the administration and indeed no government can afford not to observe the principle of federal character in composing the boards. Little wonder then that the constitution of the boards did not generate public criticism.

By and large, the administration may not have breached the principle of federal character more than the governments before it. The truth of the matter is that, the structure of the country, the constitution, finance, and patronage will always influence the pattern of political appointments in the country. And so also the level of a region's support for the ruling party in terms of votes at election. This partly explains the fate of the Southeast under this dispensation.

Contributing, the Deputy President of the Senate, Senator Ovie Omo-Agege, said the submission of Abaribe was targeted at the powers of President Buhari on nomination and appointment of competent Nigerians into public office. According to him, though the issue of balancing raised by Abaribe as regards the two principal positions of the commission was germane, perceived anomalies would be corrected in months to come. President Buhari is aware of the need to balance the positions and will do that when the tenure of the incumbent secretary expires in February next year.

He concluded by reminding the Senate President that this issue has been in the public domain since the nominees were sent to the Senate for confirmation and since there is window of redressing perceived anomaly in a few months' time, he urged the Senate to, please, forge ahead with the confirmation.

Flowing from the above, we can isolate two germane issues. First, senators misconstrued the application of the principle of federal character as it relates to the appointment of 38 members of the Commission as prescribed under Section 153 of the 1999 Constitution of the Federal Republic of Nigeria. Specifically, the Third Schedule, Part 1C, of the Constitution says the commission shall comprise of a chairman and representatives of each state of the federation and the FCT.

Besides the constitutional provision quoted above, the FCC was also midwived by a separate law. The Federal Character Commission Establishment Act of 1995 provides in Section 9 for the office of the secretary to the commission. Under this Act, the secretary is not a member of the commission; he is, in fact, a staff of the commission; he functions as the head of the commission's secretariat; and he is appointed by the President.

The above explanations are clear, unambiguous and ought to be properly interpreted. But politicians, including lawyers, may choose to be guided by politics mixed with emotion.

Going forward, the FCC, over the years, has evolved guidelines and measures to shape its operations. We shall come back to these soon.

The kernel of this discourse is the misinformation by politicians and media professionals by positing that despite the absurdity of an agency established to enthrone fair play in a federal system, subverting its own ideal. President Buhari has nominated Faredah Dankaka (from Kwara State) to chair the Federal Character Commission. This is against the background that, in March 2017, the President had appointed Mr. Muhammad Bello Tukur (from Taraba) as the Commission's secretary and chief executive officer. So, the FCC that is established to 'promote, monitor and enforce compliance with the principles of proportional sharing of all bureaucratic, economic, media and political posts at all levels of government' already has a leadership that is sectional.

Has the President violated any legal or moral code in appointing the chairman from Kwara when the seating secretary hails from Taraba? The answer is NO. The two offices are not on the same platform so there is no juxtaposition. The office of chairman is a creation of the Constitution whereas that of the secretary was created by the FCC Act. That is why one state can produce the chairman and still produce a member of the Commission. It is, therefore, awkward to argue that the two must be viewed from the prism of the Federal Character principle. That amounts to subtly questioning the judgment and authority of the President.

The commission was established by Act No. 34 of 1996, now cited as FCC Act, Cap F7, Laws of the Federation of Nigeria 2004, which mandates it to implement and enforce the Federal Character principle and formulae for equitable distribution of public posts, socio-economic amenities and infrastructural facilities across the country.

When the Federal Character principle appears in national discourse, many are wont to limit this mandate to mere distribution of positions and offices. To be sure, the principle mandates FCC to ensure that all state of the federation and the Federal Capital Territory are equitably represented in all national institutions and in public enterprises and organisations.

The guiding principles of federal character remain equity and fairness. It cannot be parity as some may want to argue. Specifically, the FCC Act, under guiding principles and formulae for the distribution of posts says:

- i, Each State of the Federation and the Federal Capital Territory shall be equitably represented in all national institutions and in public enterprises and organizations.
- ii, The best and most competent persons shall be recruited from each State of the Federation to fill positions reserved for the indigenes of the State or the Federal Capital Territory.
- iii, Once a candidate has attained the necessary minimum requirement for appointment to a position, he shall qualify to fill a relevant vacancy reserved for indigenes of his State or the Federal Capital Territory.
- iv, Where the number of positions available cannot go round the States of the Federation or the Federal Capital Territory, the distribution shall be on zonal basis but in the case where two positions are available, the positions shall be shared between the northern and the southern zones.

Item number iv above is particularly relevant to the present discourse. The number of positions available at FCC as discussed at the Senate did go round all the States and the FCT. Every State as well as the FCT has a commissioner as a statutory member of the Commission. In this instance also, there is only one opening for the position of Chairman. The position of Secretary is not vacant presently. The argument on north-south distribution is therefore inappropriate and disingenuous.

The important thing is to differentiate between political appointments and civil service rule. You cannot expect political appointments to reflect the principle of federal character. People will laugh at you. They are called political appointments because they are political. President Muhammadu Buhari is obliged to compensate those that worked for him to become the President. So, one should not be surprised if he is not following the principle of federal character in making his appointments.

Let us differentiate between political appointments and federal character because they are not the same. The principle of federal character is a civil-service issue. Political appointments are political because the beneficiaries are meant to assist the President. So, if Buhari appoints anyone he chooses, nobody can

question him. The federal character is a procedure that says that all parts of the country must participate in government.

If the President leaves office, some of his political appointments would cease to be valid. That is why federal character cannot be used as a condition for making political appointments. Elected politicians are looking for loyalty and other qualities. So, if they choose to appoint those they deem fit in this regard, there should be no problem.

FINDINGS

The recent court case instituted by leaders of various pan-cultural groups in Nigeria the President only confirmed the constancy of truth at such a time as this: that the biggest trouble with the Buhari administration is the “lopsided appointments,” “nepotism,” “sectionalism”, “parochialism,” etc. This study spotted this again in the context of Buhari’s consistency in failing to respect the federal character provision in the country’s constitution. The provision is designed to address lopsided appointments and build a peace that has eluded us since independence, 60 years ago. But only few individuals have been able to differentiate its applications on administrative positions.

The development, though bizarre in its entirety as those who mis-understood it, is reminiscent of his penchant for the violation of the federal character principle and in turn the constitution, in several appointments made since 2015. The brazen, yet undisguised attempt to deepen sect and sectionalism along our fault lines is undemocratic, unconstitutional, perfidious and highly condemnable.

Nigeria is no doubt a complex and complicated diversity. It spans across culture, ethnicity, language, religion and natural resources among others. Across its 36 states, plus the Federal Capital Territory (FCT) and 774 local government areas are more than 350 nations that are seeking self-actualisation and a sense of belonging in the forced yet inconvenient contraption called Nigeria. Our founding fathers and minds behind our constitution recognised the primacy of heterogeneity and inclusiveness in the making of peace and progress of the country. Specifically, the 1979 Constitution adopted the federal character principle to orchestrate elusive peace, equity and stability. It was to make amends for inter-ethnic distrust, dominance, rivalry, conflicts and wars. Section 14 (3)(4) and the Third Schedule, Part 1(c) of the Constitution spell out the principle in clear terms. And to ensure implementation, the Federal Character Commission was in 1996 established – to manage the peace process.

For clarity, the Section 14 (3) of the 1999 Constitution, as amended, provides in detail that: “the composition of the government of the federation or any of its agencies and the conduct of its affairs shall be carried out in such a manner as to reflect the federal character of Nigeria and the need to promote national unity, and also to command national loyalty, thereby 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 agency.”

Indeed, the inherent goal was to broaden participation in all areas of power, enhance inclusiveness and douse alienation of segments in a truly federal system. Notwithstanding the errors of commission or omission that have for long kept the federal character provision in Chapter II of the 1999 Constitution, and therefore non-justiciable, commonsense dictates that national integration is only possible where there are justice, fairness and equitable distribution of our common patrimony.

Buhari’s predecessors in office had been careful about the sanctity of this constitutional provision, however imperfect. Amid relentless claims of marginalisation by minority groups, the federal character was also leeway for celebrating mediocrity and gross incompetence within the public civil service. Some notable Nigerian leaders of thought already opined that the ineffectual federal character principle should be scrapped and replaced by a merit-based system. But the constitution is still the constitution. The point at issue today, is that the subsisting constitutional provision has been honoured in the breach than in its observance by the Buhari-led administration. The federal system has been so bastardised that most of Buhari’s appointments had no recourse to either equitable distribution or merit. What is worse, even the composition of the Federal Character Commission itself has no regard for federal character. Since the Senate have confirmed new nominees to the commission , both the chairman and the

secretary are from the North. This is incredible. Next year is still open for him to do the needful.

CONCLUSIONS

Nigeria's Federal Character Commission has since 1996 been mandated to monitor and enforce the constitutional principle of federal character in government employment and public expenditure. The creation of the FCC was widely seen – not in the least by Mustapha (2007) as a positive step towards dealing with Nigeria's 'nagging problem of national representation' (Mustapha, 2007, p. 21). In this paper, we have analysed how the FCC has been able to fulfill its objectives. We found that imbalances in political appointments and public service employment have largely remained the same since the inception of the FCC, and hence have not been mitigated by the Buhari's administration. Even though we did find that imbalances increased over time, this does raise questions with regard to the FCC's performance. While the federal character principle and the FCC have avoided the capture of government institutions by a single group and may have important symbolic value in strengthening power-sharing norms, this lack of progress requires further scrutiny.

In this paper we have highlighted the main reasons undermining the functioning of the FCC. Some of these have remained the same since Mustapha's (2007) earlier analysis: the poor understanding of the Constitution and Public Service rule as it affect the application of this affirmative action. These issues are compounded by a lack of resources and the non-replacement of FCC commissioners as at when due.

To strengthen the role of the FCC, important gaps in the current functioning of the institution will need to be addressed. To create the necessary support to do so, however, the FCC will have to brush up its image with regard to how the institution itself respects federal character.

We have never liked the principle of federal character. It is an opportunity to fill public offices with unqualified people. I mean people who are intellectually undeserving. We are sure that we are speaking the minds of many Nigerians. We believe in one thing: if somebody is good, do not play politics with his competence.

We should not sacrifice meritocracy on the altar of federal character. Which country has ever developed by doing that? All the developed countries of the world have always gone for the best when filling vacant positions. They do not care about where the appointee comes from. The principle of federal character is retrogressive in terms of the economic development of the country. That is why people who are qualified for certain jobs are never given the opportunities. On the contrary, those who do not have anything to offer are given sensitive jobs. The civil service is where it is today because of the principle of federal character.

If President Muhammadu Buhari believes that good people come from a particular local government area, let them come and work for the country. The earlier we do away with federal character, the better for this great country. That is our position.

More important, let us not get it twisted, the flagrant disregard of the federal character principle is an attack on the constitution. The Section 14(4) of the 1999 Constitution states: "The composition of the government of a state, a local government council, or any of the agencies of such government or council or such agencies shall be carried out in such manner as to recognise the diversity of the people within its area of authority and the need to promote a sense of belonging and loyalty among the peoples of the federation." Our leader should be reminded that the framers of our constitution were very conscious of the diversity of our country and deeply appreciated the need to give everyone a sense of belonging, failing which the very fabric of the country could be torn into pieces. Why the weight of this consideration is always lost on this government or this President beats imagination.

It was at this time five years ago that Buhari concluded his inauguration speech with the memorable quote: "I belong to everybody; I belong to nobody." Nigerians already know better and could see through his parochial and clannish sentimentality. His is a presidency that has for five years belonged more to northerners than to all Nigerians – the electorate. If not, let Nigerians see fairness, equitable distribution of appointments to our best hands across the country, and give every member of this entity a sense of belonging. It is a step in the right direction to secure the future of one Nigeria by respecting the

letter and the spirit of the constitution, which Buhari has on two occasions sworn to defend. It is hoped that our leader realises the consequences of a breach of the organic law of the land – the constitution. The study concludes by positing that lack of understanding of the Constitution and the FCC Act have made their application to be toxic and “virus” in application and needs better understanding among scholars.

REFERENCES

- Abubakar. D. (1998). The Federal Character Principle, Consociationalism and Democratic Stability in Nigeria. In Amuwo K. et al (eds), *Federalism and political restructuring in Nigeria*. Ibadan: Spectrum Books Limited.
- Agbaje, A. (1989). Mass Media and the Shaping of Federal Character: A Content Analysis of four decades of Nigerian news papers 1950 – 1984. In P.P.E Ekeh and E.E. Osagae (eds), *Federal character and federalism in Nigeria*. Ibadan: Spectrum Books Limited.
- Alike, E. (2020). *Dankaka’s Nomination Refreshes Storm over Abuse of Federal Character Principle*.
- Ayoade, J.A.A. (1998). The Federal Character Principle and the Search for National Integration. In Amuwo K. et al (eds), *Federalism and Political Restructuring in Nigeria*. Ibadan: Spectrum Books Limited.
- Bello, M.L. (2012). Federal Character as a Recipe for National Integration: the Nigerian Paradox. *International Journal of Politics and Good Governance*, 3(3.3): 0976 – 1195
- Dagaci, A.M. (2009), “Democracy and the Leadership Question: A Redefinition in the Nigerian context,” *Lapai International Journal of Management and Social Sciences*, Vol. 2 No. 2.
- Eme, O. I., Nwaoha, C., & Onyishi, A. (2014). Women Marginalization in Electoral Politics in Nigeria: A Historical Perspective. *Arabian Journal of Business and Management Review (Nigeria)*, 2(7): 1-17 .
- Eme, O. I & Onuigbo, R.A. (2015). Buhari Presidency and Ethnic Balancing in Nigeria, a paper presented at the Faculty of the Social Sciences 1st International Conference on the Theme: *Harnessing Diversity For Sustainable Development Held At Princess Alexandra Auditorium, University Of Nigeria, Nsukka* between 21-22ND OCTOBER, 2015.
- Eme, O. I (2020), The Politics of Exclusion & Governance in Nigeria: A Thematic Exposition of Buhari’s Presidency , a paper presented at the Social Sciences Academy Conference *Held At SSAN Complex Abuja* between 4-7th June, 2020.
- Federal Character Commission. (2006). *Handbook*. Abuja: Presidency.
- Federal Character Commission. (2014). *Handbook* (Revised Edition). Abuja: The Presidency.
- Federal Republic of Nigeria. (1999). *Constitution of the Federal Republic of Nigeria* (As amended). Lagos: Federal Government Printer.
- Federal Republic of Nigeria. (1979). *Constitution of the Federal Republic of Nigeria*. Lagos, Government Printer.
- Federal Government of Nigeria. (1977). *Report of the Constitution Drafting Committee*. Lagos: Federal Ministry of Information.
- Obia, V. (2014). *Civil service commission and federal character principle*. *ThisDay* Newspaper, September, 14, pp. 17-18.
- Ogunojemite, L. O. (1987). Federal Character as an Integrative Mechanism: The Nigerian Experiment at Nation Build. In Olugbemi S. O. (ed), *Alternative Political Futures for Nigeria*. Lagos: A Publication of the Nigerian Political Science Association.
- Ogunseye, J. (2015). Buhari’s Appointments and Matters Arising; *Leadership* Newspaper, Sep 8, 2015.
- Ojo, E. (1999). Federal Character: Principle and Practice. *The Herald*, April 18, 1999
- Okoli, F.C. (1990). Democratization of Public Bureaucracy in Nigeria. *Journal of the Council for Social Development*, 20 (1).
- Olugbemi S. O. (1987). The Nigerian Civil Service and National Development. In Olugbemi S. O. (ed) *Alternative Political Futures for Nigerian*, Lagos: A Publication of the Nigeria Political Science Association.

- Onuigbo, A.R, Eme, I.O,(2019),Federalism in A Post-Colonial State A Case of Nigeria, *International Journal of Innovative Development and Policy Studies* 7(1):52-65, Jan.-Mar.
- Otite, O. (1990). *Ethnic Pluralism and Ethnicity in Nigeria*. Ibadan: Shaneson Publishers.
- Suberu, R. I. and Diamond, L. (2004).*Institutional Design, Ethnic Conflict, Management and Democracy in Nigeria*, <http://iiwww.google>.
- Suberu, R.I. (2001). *Federalism and Ethnic Conflict in Nigeria*. Washington DC: USIP – United States Institute of Peace.
- Agabi, C. and Iloani, F. A. (2018). *Absence of boards, commissioners slows SEC, character commission*. *The Daily Trust*, December10, 2018. Retrieved from <https://www.dailytrust.com.ng/absence-of-boards-commissioners-slows-sec-character-commission.html>.
- Baiyewu, L. (2018). Buhari’s alleged lopsided security appointments split southern, northern senators. *Punch*, October24. Retrieved from <https://punchng.com/buharis-alleged-lopsided-security-appointments-split-southern-northern-senators/>
- Bello, N. (2018). Leadership crisis threatens Federal Character Commission. *The Guardian*, 14August. Retrieved from <https://guardian.ng/politics/leadership-crisis-threatens-federal-character-commission/>
- Brown, G., Langer, A., &Stewart, F. (2012). Affirmative action: Foundations, contexts, and debates. In G. Brown, A. Langer, &F. Stewart (Eds.), *Affirmative action in plural societies: International experiences* (pp. 1–23). Basingstoke: Palgrave Macmillan.
- Diamond, L. (1982). Cleavage, conflict, and anxiety in the Second Nigerian Republic. *The Journal of Modern African Studies*, 20(4), 629–668.
- Federal Character. Senate to probe Buhari’s appointments. (2018, July19). *The Sun*. Retrieved from <https://www.sunnewsonline.com/federal-character-senate-to-probe-buharis-appointments/>
- Heyer, J., &Jayal, N. G. (2012). The challenge of positive discrimination in India. In G. Brown, A. Langer, &F. Stewart (Eds.), *Affirmative action in plural societies: International experiences* (pp. 54–79). Basingstoke: Palgrave Macmillan.
- Mustapha, A. R. (2007). Institutionalising ethnic representation: How effective is the Federal Character Commission in Nigeria. CRISE Working Paper 43.
- Mustapha, A. R. (2009). Institutionalising ethnic representation: How effective is the Federal Character Commission in Nigeria. *Journal of International Development*, 21(4): 561–576.
- Ojeme, V. (2018). Federal character not required in appointment of service chiefs – FCC. *Vanguard*. Retrieved from <https://www.vanguardngr.com/2018/03/federal-character-not-required-appointment-service-chiefs-fcc/>
- Oloja, M. (2017). A Federal Character Commission without federal character!*The Guardian*, , 18June. Retrieved from <https://guardian.ng/opinion/a-federal-character-commission-without-federal-character/>
- Stewart, F. (ed). (2008). *Horizontal inequalities and conflict: Understanding group violence in multiethnic societies* ISBN: 9780230516809. Basingstoke: Palgrave Macmillan.
- Suberu, R. T. (2001). *Federalism and ethnic conflict in Nigeria*. Washington, DC: United States Institute of Peace (USIP) Press.
- Ukiwo, U. (2013). Managing horizontal inequalities and violent conflicts in Nigeria. In Y. Mine, F. Stewart, S. Fukuda-Parr, &T. Mkwandawire (Eds.), *Preventing violent conflict in Africa: Inequalities, perceptions and institutions* (pp. 178–207). Basingstoke: Palgrave Macmillan.