NIGERIA : TOWARDS A COUNTRY WITHOUT A STATE?

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In the 1970s, the pressure of the civil war prompted Nigerians to anticipate on debates and issues that were then shunned by most African states. A transition towards civilian rule was organized by the military at a time when there was no international pressure to do so. As part of the quest for a new constitutional dispensation, extensive debates were also launched. Such sensitive issues as the politics of ethnicity, citizenship versus indigeneity, interactions between state and religion, or the establishment of checks and balances to avoid state control by a single geo-ethnic group were widely and openly debated. Even though decisions on certain issues were labeled "no-go areas" by the military, a broad constitutional debate ensued which eventually gave birth to a deeply original ad hoc combination of federalism with consociationalism.

The transformations of the late seventies were attuned to preserve Nigeria’s unity. Three decades later, the Nigerian practice of consociationalism (political representation based on respect for minorities and assertion of group rights) exerts a debilitating impact on the country's polity. In several respects, this points to the relevance of a distinction between the effectiveness of consociational mechanisms when they endorse pluralistic interactions, as observed within the European political system (principles of autonomy, grand coalition, proportional electoral system, veto powers) and the boomerang effects of consociational engineering in deeply segmented plural societies.

Three major features characterize the modus operandi of Nigeria's current federal system: the federal character principle; the creation of new states and local governments through the segmentation of existing territorial units; a revenue allocation formula that emphasizes equity and demography at the expense of the derivation principle (unlike what was the case before 1969). Nigerian federalism (especially through its transformation of the federal character principle into a doctrine, emphasis on indigeneity vs settlers, incitation to the creation of new states and local governments and revenue allocation formula underscored by population count and 'equity' at the expense of derivation) imposes strong financial and bureaucratic restraints on the ability of states to secede, unlike what was the case when the much larger regions controlled much of their resources in the fifties and sixties. Nigeria, as a state, is nonetheless being confronted with a much more insidious series of challenges, namely a de facto decline of institutional capacity, the erosion of citizenship and the promotion of parochial values, loss of territorial control, and the delegitimization of the Nigerian state's modernizing and secular ethos.

Institutional decay

During Nigeria's decade and a half of military rule (1983-1999), declining oil revenues and predatory leadership stimulated arbitrary and non-accountable governance. No established structure was spared: disinstitutionalization affected first and foremost the police and armed forces, but also the judiciary and the federal, state or local government administrations which suffered from under-funding, disregard for bureaucratic procedures, cronyism and corruption. Military rule also contributed to institutional decay through the diffusion of a culture of impunity among law enforcement agencies. The assassination of Newswatch editor Dele Giwa by a parcel bomb, the execution of the writer Ken Saro Wiwa and his nine co-accused after a mock trial, the death of Shehu Yar Adua after he was given a lethal injection in jail, the mysterious death of Moshood Abiola as he was about to be released, or the assassination of his wife Kudirat, gunned down by thugs near an army check point,

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represent but a small sample of the kind of state violence that could be unleashed on citizens during Nigeria’s successive military regimes. With the inauguration of the Fourth Republic in May 1999, constitutional rule and press freedom were formally reinstated, but this could not reverse the effects of years of institutional decay and disrespect for justice and the due process of law. The prebendal expectations of new civilian elites also severely constrained the reinstatement of institutionalized procedures.

Persisting state failure and institutional decay have simultaneously been brought into the limelight by the explosion of insecurity across the country. The soldiers’ retreat into their barracks in May 1999 signaled an expansion of criminality within urban areas, along highways and in the borderlands. Homes were broken into, banks raided, cars and at times buses seized by gangs of thieves often better armed than the police. The institutions of the fourth Republic have been unable to cope successfully with the multiplication of violent conflicts across the country. According to official data, during the first three years of the Obasanjo administration no less than sixty violent conflicts were monitored, occasioning several thousand deaths, in addition to injuries, massive property destructions and a stream of about 1.7 million internally displaced persons. The issue still remains of recurrent and dramatic topicality at the time of writing this paper: ethno-religious conflict in Plateau state and its spillover effects in neighboring states has led to the decision of President Olusegun Obasanjo to demote the governor and proclaim the state of emergency on 18 May 2004 (see paper by Abubakar Sokoto Mohammed).

Nigeria’s return to democracy has also unleashed a fierce scramble for positions, if necessary through violence. Public failure to guarantee the security of citizens has not spared politicians. The need to muster adequate private protection has been further emphasized by the political assassination of several prominent personalities. In turn, job opportunities associated with the privatization of security through the employment of ‘area boys’, ethnic militias, vigilante groups and party ‘thugs’ tends to translate into another source of insecurity. It could well be that the traditional political figure of the “big man” - able to dispense patronage through his control of key resources - may be eroding to the benefit of another emblematic figure, that of the “strong man”. The shift would mean that resource control and patronage would now be engrained in the ability to control (or have access to) private means of coercion.

Insecurity across Nigeria is widely perceived to have reached levels unseen since the civil war, not least due to the very behavior of security forces. Police performance suffers from the combination of insufficient recruitment and training, low salaries, harsh conditions of service, lack of accommodation and epileptic logistic and budget allocations. Police officers are not simply viewed as ineffective, they also represent a source of material and physical insecurity. This begins with the much resented collection of petty bribes at checkpoints and through the provision of their services against payment. Police behavior keeps being associated with allegations of extrajudicial executions and human rights violations across the country. No part of the country seems insulated from the dramatic combination of “impunity and state-sponsored violence”¹. The privatisation of security proceeds from the inability of the state to offer protection to its citizens, as much as from the diversion of state authority for private use by state agents.

The erosion of citizenship and its values

Fragmenting Nigeria into an increasing number of dependent states and local government entities initially contributed to contain centrifugal tendencies, but this has not been without unwanted effects. The financial rewards associated with the creation of new territorial units have triggered a self-

perpetuating stream of demands (as in the Niger delta), often expressed with violence and in conjunction with the sharpening, or at times sheer invention, of distinct geo-ethnic identities. The progressive transformation of Nigeria’s original three regions into a myriad of states and local governments also means that the territorial space within which a Nigerian citizen can presently claim indigenous status is far smaller than it used to be. Establishing new states and new local governments has formally transformed into second class citizens scores of Nigerians who qualified as indigenes within larger territorial entities.

Another issue is the legal distinction between settlers and indigenous Nigerians that was originally inserted in the 1979 Constitution which alternatively refers to the "indigenes from a state" or to the "populations which belong .. to a state". Both expressions define Nigerian citizens "either of whose parents or any of whose grand parents was a member of a community indigenous to that state". These descriptions of indigenous status through exclusive reference to jus sanguinis as opposed to residency, have become central to the implementation of the federal character doctrine. They also create opportunities for discrimination among Nigerian citizens. The growing significance attached to Nigeria’s 'son-of-the-soil' syndrome has been identified by numerous authors, including Nigeria's current president Obasanjo, as "one of the most intractable forces militating against national integration."3. Over the past two decades, countless numbers of civil servants have been ordered to return to their ‘home’ states or local governments after the creation of new territorial entities; promotions within the administration have also become frequently granted or denied on the grounds of non-indigeneity; properties have been confiscated and access to land ownership constrained. Admission within the state-funded school systems or subsidized access to health facilities have at times been reserved to 'indigenes' even when these did not live nor paid their tax in the state. Political competition has also enhanced the use of indigeneity as an informal, but powerful weapon against competitors or rival applicants to party and public functions.

Despite the well publicized defects of Nigeria’s primordial approach to indigeneity, it was carried unchanged into Nigeria’s 1999 Constitution. If anything, the issue of indigeneity issue has gained additional preminence due to the adoption of increasingly precise guidelines and the establishment of a Federal Character Commission endowed with the ability to monitor and control access to positions in the civil service. In effect, the federal character principle has all but reduced sources of tensions, not least due to the creation of additional areas for controversy. The federal character doctrine seems to have primarily stimulated demands towards the introduction of more and more precisely defined criteria and quotas, including through the monitoring of religious affiliation and the rotation of key political functions among geo-political zones. Just as the creation of new states and local governments nurtures an ongoing stream of new conflicts over boundary delimitations.

Loss of territorial Control

Across Nigeria, the inability of the police and judiciary to protect citizens has prompted the establishment of vigilante groups and militias by ethnic or religious communities. Vigilantism gained a particularly high profile in Nigeria’s south-eastern states when, during the first term of Obasanjo’s

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presidency, groups of armed vigilante were formally contracted to provide private security services. Police attempts to crack down their activity had been partly successful, but this did not mean that federal territorial control has been effectively restored. Vigilante groups are spreading across Nigeria as a substitute to the failure of police and armed forces. The pattern also reflects on the federal government's de facto loss of territorial control despite its ongoing rejection of demands for any transfer of police authority to the states.

It is against this backstage of decaying security and judiciary institutions that, in 1999, the future governor of Zamfara state decided to campaign for the adoption of a sharia criminal code. This commitment largely contributed to his election and brought him immense popularity when it effectively reached the stage of policy implementation; by the end of 2002, similar criminal codes had been drafted and adopted by eleven other states. The ability of the sharia courts to apply decisions instantly had a wide popular appeal as a much valued alternative to the magistrate courts’ system, perceived as costly and deceitful due to endless procedures. The Sharia’s harsh punishments were similarly welcomed as a deterrent to criminality and corruption; the state-endorsed reinstatement of the social and religious precepts of Islam aroused much greater expectations that the discredited realities of Nigeria’s democratic transition. Today, the implementation of the Sharia’s harsh punishment does not seem to have contributed to any decline of corruption in the north or among northern politicians. Amputations for theft have only been carried out against petty thieves; convictions to death by stoning for adultery or sodomy have only been proclaimed against poor and illiterate people, with a strong gender bias against women. None of the death sentences has, however, been so far carried out; nor has their discussion ever reached Nigeria’s Supreme Court. The explosive question of the constitutionality of the sharia criminal codes has yet to be addressed. Meanwhile, within 12 out of Nigeria’s 36 states, the sharia courts coexist with the magistrate courts system, a reflection on the restrictions imposed to federal government authority. Sharia laws are formally meant to apply exclusively to Muslims, but their broader social impact has contributed to nurture a climate of insecurity among non-Muslim minorities and settlers, a perception reinforced by a legacy of violent inter-religious confrontations.

The establishment of sharia criminal codes in 12 out of Nigeria’s 36 states cannot be dissociated from the feeling of marginalization incurred by northern Nigerian elites in the aftermath of the May 1999 election. The move spread at a time when the election of Olusegun Obasanjo had broken away with several decades of northern presidency, and was rapidly followed by a wave of retirements and dismissals within the army and the economy. Regional challenges to federal authority due to feelings of marginalization have also, and most dramatically, been associated with the Niger delta region where Ijaw claims to assert control over oil resources have translated into demands for autonomy. These, initially formalized in the Kaiama declaration, have expanded into exacerbated manifestations of the son-of-the-soil syndrome. In the south-eastern states, an even more radical program has been brought forward by the Movement for the Actualisation of the Sovereign state of Biafra (MASSOB) whose members have kept challenging their very membership of Nigeria. They use the uniforms of the former Biafra police force, hoist the former separatist flag and circulate maps showing the boundaries of Biafra. In the South-West, feelings of deep frustrations, this time due to the annulment of Chief M.K.O. Abiola’s election on 12 June 1993, were also at the origin of the establishment of the Oodua People’s Congress (OPC).

Conclusion

Decades of institutional decay and the erosion of territorial control point to the steady transformation of Nigeria into a country without a state, even though this may not appear at first sight. Indeed, unlike what may be said of most African states, Nigeria, through its complex web of federal, state or local government structures, still offers attractive opportunities for neo-patrimonial governance to corrupt public office holders. Competition to muster the spoils of state or bureaucratic power radiates through large sectors of the Nigerian economy since about 600 parastatals are still directly dependent on the
federal government, while an estimated 900 belong to states and local governments. For this reason, if there is a Nigerian predicament, it could well reside in the prebendal slant which the country’s oil wealth nurtures at the expense of pro-poor and pro-growth policies;

The availability of significant state-controlled resources contributes to the material preservation of the Nigerian state, while the classic attributes associated with stateness are being eroded. For a variety of reasons, the federal government cannot assert its claims to monopoly over the legitimate use of coercion. The security forces’ inability to restore security and order is difficult to disentangle from demands for greater local or regional autonomy. State authority is being further eroded by the discredit cast on the Nigerian state's the modernizing and secular ethos. The key domestic players often appear to be ethnic militias, groups of vigilantes and neo-traditional organizations such as the Arewa Consultative Forum in the north, Afenifere in the south-west or Ohanze Ndigbo in the south-eastern states. Federal power is also constrained by powerful geo-ethnic criminal networks who have acquired a global reach in such areas as petroleum smuggling, illicit drugs trafficking, commercial fraud and identity theft. If left unchecked, the diminishing returns of Nigeria's consociational model, the privatization of public resources amidst poverty, and, not least, the erosion of federal territorial control and legitimacy point to an increasingly unsteady future for Nigeria. The possibility of its transformation into a country without a state can no longer be dismissed.