**2021 Constitution Amendment: Expectations and Challenges**

**By**

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**Introduction**

I am happy to be here among my learned colleagues. I appreciate the Nigeria Bar Association (NBA), particularly the leadership of the Section on Public Interest and Development Law, SPIDEL, for not only inviting me to be part of this Conference, but also to speak on perhaps one of the most topical issues in Nigeria today- our Constitution. The last time I was in Ibadan for something of this nature was on March 3, 2017, when I delivered the 4th National Public Service Lecture of the University of Ibadan Alumni Association entitled “Federalism and the Legal Framework for Combating Corruption in Nigeria”.

I must also add that the theme of this conference, “The Role of Public Interest in Government” is apt. Nigeria is in need of public interest-driven governance now than any other time in our history. As I pointed out recently at the 10th Synod of the Anglican Diocese of Umuahia, our nation is on the brinks and we are at that juncture where we must salvage and rebuild or risk perishing. But may God forbid that we perish.

At the centre of this rescue mission is the amendment of the 1999 Constitution, which is the *grund norm* of our nation. Of course, it will be outlandish to say that all our problems emanate from our Constitution, but it will also amount to playing the ostrich and burying our heads in the sand, to pretend that the incremental demolition by successive military regimes of the fine principles upon which our Federation was founded is not chiefly responsible for the big disappointment and wobbling nation that Nigeria has become.

I believe it is the nexus between our precarious situation and the 1999 Constitution that informed the decision of the organisers to come up with the topic, “2021 Constitution Amendment: The Expectations and Challenges”.

In attempting to do justice to the topic, I will highlight what we have done so far, what we are currently doing, what Nigerians expect us to do, and of course the challenges to constitution amendment or review in Nigeria.

**Highlights of Amendments**

In their book, “The Nigerian Military and the Crisis of Democratic Transition: A Study in the Monopoly of Power”, Abubakar Momoh and Adejumobi Said, postulate that there is an “intrinsically contradictory relationship between the military and democracy”, while Vivian Hart, writes in “Democratic Constitution Making”, that democratic constitution cannot be written in a hurry.

That notwithstanding, it is common knowledge that the 1999 Constitution was midwifed by the General Abdulsalami Abubakar regime in a hurry. The Constitution Amendment Debate Coordinating Committee headed by His Lordship, the late Justice Niki Tobi, was inaugurated on November 11, 1998, but had just one month to deliver on their assignment, drawing also from the 1995 Draft Constitution. So, it is only natural that the resultant Constitution leaves more to be desired, hence the efforts to amend it.

It has not been easy altering the 1999 Constitution. I will highlight the challenges later. But the good news is that when we came on board in the 6th National Assembly, we were able to break the jinx in 2010. Adopting an incremental approach, we have equally recorded several successful amendments. However, there were proposed amendments passed by the National Assembly and the State Houses of Assembly, which were denied assent by the President. Of course, there were those, which could not scale through at the level of the National Assembly.

In the 8th National Assembly alone, a total of 33 Amendment Bills were sponsored. 17 Bills were passed by the National Assembly and transmitted to the State Houses of Assemblies. Out of this number, the State Assemblies ratified 12 Bills, while 5 were either rejected or allowed to elapse. Out of the 12 Bills transmitted to the President, only 5 Bills were granted assent by Mr. President, while 7 were declined assent.

Here are the highlights of the Bills we have worked on from the 6th to the 8th (last) National Assembly:

1. **Amendments passed by the National Assembly, ratified by two-thirds of the State Houses of Assembly, and assented by the President:**

1. Amendments to Sections 145 and 190 of the Constitution to compel the President/Governor to transmit a letter to the National Assembly/State Assembly to enable their Vice or Deputy act whenever they are to proceed on vacation or unable to discharge their functions, failing which the Vice President or Deputy Governor automatically assumes office in acting capacity after 21 days.
2. Amendments to enable a person sworn in as President or Governor to complete the term of an elected President or Governor, but disqualified from election to the same office for more than one more term.
3. Sections 135 and 180 of the constitution were also amended to consolidate the remaining term of office of a President/Governor, who won a rerun election to include the period already spent in office.
4. Sections 81, 84, and 160 of the Constitution were amended to make the Independent National Electoral Commission, INEC, financially and administratively independent. Section 160 now expressly states that in the case of INEC, its “powers to make its own rules or otherwise regulate its own procedure shall not be subject to the approval of the President”.
5. Section 156 of the Constitution was amended to remove membership of a political party as a qualification for appointment into INEC, thereby insulating members from partisan politics.
6. Amendments to Section 285 (5) to (8) to set time limits for the filing, hearing and disposal of election petition to ensure speedy dispensation of justice.
7. Amendments to Sections 76, 116, 132, and 178 to provide for a wider timeframe for the conduct of elections.
8. Amendments to Section 285 and the Sixth Schedule of the 1999 Constitution to reduce the composition of Tribunals to a Chairman and two Members and the quorum to just a Chairman and a member.
9. Amendments to Sections 66(h), 137(i), and 182(i) to delete the disqualification of persons indicted by an Administrative Panel from contesting an election.
10. Stipulation of timeframes for filing, adjudication, and disposal of pre-election lawsuits.
11. Reduction of age qualification for political offices (Not Too Young to Run Amendment).
12. Amendments to Sections 134, 179, and 225 of the Constitution to extend from seven to 21 days the period within which INEC shall conduct run-off elections in presidential/gubernatorial contests.
13. Insertion of Section 225A to stipulate the conditions and process for deregistration of political parties.
14. Financial autonomy to the National Assembly and State Assemblies to enhance their independence and to promote accountability.
15. Amendments to Sections 6, 84, 240, 243, 287, 289, 292, 294, 295, 216, 318, the Third Schedule and Seventh Schedule to the Constitution and insertion of a new Section 254 to make the National Industrial Court a Court of superior record and equal in status with the Federal High Court.

2. **Amendments passed by the National Assembly, approved by two-thirds of State Assemblies, but not assented by the President**:

1. Amendment to Second Schedule of the Constitution to devolve more powers to the states by reorganising the Legislative Lists to move Railway, Aviation, Power, National Park, Stamp Duty etc. from Exclusive List to Concurrent List.
2. Amendments to Sections 150, 174, 195, 211, 318 and the Third Schedule to the Constitution to separate Office of the Attorney General of the Federation/State from the Office of Minister/Commissioner for Justice. Office of the Attorney-General was granted financial autonomy and security of tenure to insulate it from political control.
3. Amendment to Section 9 to provide for procedure for the enactment of an entirely new constitution, which included referendum.
4. Inclusion of basic education and primary healthcare in fundamental and justiciable human rights.
5. Alteration of Sections 7, 65, 106, 131, 177, 288 of the Constitution to allow independent candidates in elections.
6. Inclusion of electoral offences as grounds to disqualify candidates from future election.
7. Amendments to Sections 4, 51, 67, 68, 93 and 109 of the Constitution to allow legislators act as members of commissions or constitutionally/legally established bodies by virtue of their office or position as members of the legislature, provide immunity for members of the legislature with regards to words spoken or written at plenary sessions or committee proceedings, institutionalise legislative bureaucracy in the Constitution.
8. Mandatory presentation of yearly State of the Nation address to a joint session of National Assembly by the President.
9. Straightening the processes for state creation to make them less cumbersome.
10. Removal of presidential assent to constitution amendment Bills as is the case in the US.
11. Alteration of Section 9 of the Constitution to provide the procedure for overriding presidential veto in Constitutional Amendment.
12. Alteration of Sections 81 and 121 of the Constitution to provide for the financial autonomy for Office of the Auditor-General of the Federation and Office of the Accountant-General of the states by placing them on the First Line Charge, thereby making them independent.
13. Amendments to Section 58 compelling the President/Governor to transmit assent/veto of a Bill to parliament within 30 days (it is 10 days in the US), failing, which such Bill becomes law automatically. Where override is necessary, parliament must exercise such power within seven days.
14. Amendment to Sections 233, 237, 241, 243, 246, 247, 250, 267, 281, 282, 291, and the Third Schedule to the Constitution to further reform and strengthen the judiciary for speedy dispensation of justice.
15. Provision for sanction for disobeying legislative summons.
16. Inclusion of all former Presidents of the Senate and Speakers of the House of Representatives in the membership of the National Council of State as former heads of the other two arms (CJN and President/Head of State) are already included.
17. Creation of Office of the Accountant-General of Federal Government different from Accountant-General of the Federation to promote transparency and accountability.
18. Prohibition of courts/tribunals from granting a stay of proceedings on account of interlocutory appeals in electoral matters.
19. Conferment of criminal jurisdiction for electoral offences on the Federal High Court.
20. Pension for former presiding officers of the legislature as is the case with heads and deputy heads of the executive.
21. Amendments to Sections 81 and 121 of the Constitution to provide for the time within which the President or the Governor shall lay the Appropriation Bill before the National Assembly or House of Assembly to encourage early presentation and passage of Appropriation Bills. This amendment sought to provide for the compulsory presentation of budget estimates by President/Governor latest September and passing it latest December 31 of the same year.
22. Reduction of the period the President/Governor could approve expenditure from the federal/state treasury based on previous year’s budget (in the absence of a new budget) from six to three months.
23. Alteration of Sections 147 and 192 of the Constitution to provide for timeframe for submission of ministerial nominees, which must also be accompanied with their respective portfolios.
24. Amendment to Section 162 to provide for compulsory savings of a defined percentage of oil revenues for rainy days.
25. Provisions to protect and enhance the rights and wellbeing of people living with disability.
26. Alteration of Section 315 of the Constitution to remove the law-making powers of the Executive Arm of Government.

3. **Amendments passed by the National Assembly, but rejected by State Assemblies:**

1. Alteration of Section 162 of the Constitution to abrogate State-Local Government Joint Accounts and provide for Local Government Councils to maintain their own special account.
2. Alteration of Section 7 of the Constitution to strengthen democracy and the effectiveness/efficiency of Local Government administration by making constitutional provisions for their democratic existence, funding and tenure. This mainly has to do with reform of local government system, including the infusion of financial autonomy, uniformity of tenure, and better electoral process in the election of Councils.

4. **Proposals not passed by the National Assembly, hence not transmitted to State Assemblies for ratification:**

1. Decentralisation of policing to create state police.
2. Single term for President and Governors.
3. Abrogation of the immunity clause.
4. Alteration of Sections 6, 84, 240, 254, 292, 294, 295, 318 of the Constitution to reflect the establishment of the Investments and Securities Tribunal under the Constitution.
5. Appointment of Minister from the Federal Capital Territory.
6. Removal of the Land Use Act from the Constitution.
7. Deletion of the National Youth Service Corps Decree from the Constitution.
8. Deletion of the Public Complaints Commission from the Constitution.
9. Deletion of the National Securities Agencies Act from the Constitution.
10. Alteration of Section 197, Second and Third Schedule to the Constitution to abrogate State Independent Electoral Commission from the Constitution.
11. Alteration of Section 25 of the Constitution to give constitutional backing to the rights of married Nigerian women to claim the indigene status of either their spouses’ state or their state own state of origin.
12. Devolution of the Prisons (Nigerian Correctional Service), wages, and pensions to the Concurrent List.

**2021 Constitution Amendment: The Agenda**

The National Assembly is on the move again to amend the 1999 Constitution. I will now itemise and explain the thematic areas for this exercise. I suppose many of you have seen them in the papers as advertised by the Senate Committee on the Review of the 1999 Constitution.

1. Gender Equity/Increased participation of Women and Vulnerable groups in governance.
2. The Federal Structure in governance and Power Devolution.
3. Local Government Administration/Local Government autonomy.
4. Public Revenue, Fiscal Federalism and Revenue Allocation.
5. Constitutional Provision for the Establishment of State Police.
6. Judicial Reform - Adjudication of election and pre-election matters and other justice delivery concerns.
7. Electoral Reforms to assist the INEC to deliver transparent, credible, free and fair elections, Political parties, Independent candidature and election management.
8. Socio-economic rights as contained in Chapter II of the Constitution.
9. Residency and indigeneship.
10. Immunity – Removal of immunity in prima facie criminal cases.
11. Time-line for Assent of Bills and Passage of Appropriation Bill.
12. States and local government creation.
13. Strengthening the independence of institutions like the office of the Accountant-General of the Federation, Auditor-General of the Federation and Office of the Attorney-General of the Federation and those of the states.
14. Federal Capital Territory Administration.
15. The Legislature and Legislative Bureaucracy.
16. Constitutional Roles for Traditional Rulers

These are matters that were either rejected by the National or State Assemblies or passed, but not assented to by the President. I hope there will be a change of attitude this time by the stakeholders involved.

**The Challenges**

A mere look at the constitution review exercises would easily reveal high mortality rate of proposed amendments. Otherwise, we would have made a whole lot of progress. As I said earlier, most of the issues we are working on now are issues we have tried to address previously. Some of them have become reoccurring decimals in constitution amendment exercises since the inception of the current democratic dispensation.

I will therefore highlight the key challenges, which are the same as the challenges I highlighted in the lecture entitled “Nigerian Federalism: A Case for a Review” at the Osgoode Hall Law School, York University, Toronto, Ontario, Canada way back in April 2012 and my other contributions on the subject of constitution amendment.

***a. Inexperience and lack of template of procedure***: At the inception of the current democratic dispensation, we had no experience at constitution amendment and template of procedure to fall back on. Apart from the creation of the Mid-Western region, every other effort to amend the constitution democratically in Nigeria failed. It was only in 2010 that we broke the jinx and have continued to garner experience and establish templates to smoothen procedures for subsequent constitution amendment exercises.

Constitutions inherited from dictatorships are usually not detailed or explicit on the procedures to be adopted in amending it. Whereas our Constitution specifies that the State Assemblies are to vote on the amendments carried out by the National Assembly, it does not define the time frame within which such ratification should take place. Again, even when we eventually pulled the constitution amendment project through, there were controversies and litigations as to whether or not the final product needed presidential assent.

***b. Crisis of Expectations and temptation to do so much at a time:*** Another challenge is managing expectations. The people wanted so much to be done at a time. The parliament initially made that mistake of attempting to amend so much at a time and the result was total a failure of the whole exercise until we came on board in the 6th National Assembly and adopted an incremental approach. We have also learnt to break the amendments into several bills so that all cannot die at the same time.

***c. Apathy and lack of democratic culture****:* It has been difficult for the citizenry, who are used to the military language and approach of “With immediate effect” to appreciate why it would take a year or more, a lot of resources, and “long grammar” to effect the desired constitutional amendments. They easily lose interest and see the process as self-serving, expensive, insincere, and opportunistic. This apathy has also infected enlightened citizens whom you would ordinarily expect to know better. Despite publicising our agenda and efforts, and despite calling for memoranda and holding public hearings across the nation, I am always a bit taken back to hear citizens call for same amendments that we had completed in the past, but were denied presidential assent. You begin to wonder why they failed to throw their weights behind the amendments and mobilise to see that such vital amendments were signed into law.

***d. Ethno-sectional interests:*** Being a pluralistic state, each ethnic group seeks maximum guarantee against domination by others and the maximum share of power and wealth. Citizens approach constitution making with great anxiety and uncertainty as to how proposed amendments will affect their interests or alter the balance of power among the various groups that make up the polity rather than how it would carter for the long-term interest of the nation.

The problem is further exacerbated when the political elites, who are themselves the engineers of ethno-sectional sentiments, approach the process with sectional biases and short-sightedness rather than exhibit reasoned analysis and good faith in examination of the issues. Such irredentists mislead Nigerians to embrace the idea that justice can only be guaranteed by securing or inserting provisions that protect their narrow ethnic/group interests and rights or what they consider their relative advantages even if such constitutes injustice and injury to the rest of the polity. Ethnic sentiments and provocative rhetoric only manage to envenom the polity and significantly diminish the prospects of building a consensus even on most apparently worthwhile matters. Worse still, the most patriotic intentions and actions of those driving the constitution-making process are given colorations other than their intendments. Examples abound.

***e. Lack of political will:*** Constitution-making involves balancing personal, group, ethnic and institutional interests that often prove very difficult to reconcile. Self-preservation and political interest eat into the efforts to evolve a people’s constitution. For instance, the Executive arm has always found it difficult to assent to amendments that tends to whittle down the powers of the President. They forget that no President or Minister stays in office forever, those vital checks on executive excesses you vetoed today could actually be used against you tomorrow. It is vain to approach constitution amendment with any particular person in mind. It always backfires.

Furthermore, it is further observed that even matters that could be handled through consensus building and policy/administrative means are also subjected to the rigours of constitution amendment. For example, Section 162 (2) of the 1999 Constitution of Nigeria actually provides for a minimum accruable to a state on the principle of derivation in the allocation formula. There is no constitutional ceiling over derivation.

***f. Elite sabotage****:* While the ruling military junta would want to dictate procedures to be adopted in constitution-making and impose restrictions on what the Constituent Assembly could discuss, a lot of interests may also want to limit the autonomy needed by the lawmakers to meaningfully alter such constitution. Several patriotic and altruistic proposals have been killed by the State Assemblies. They either vote against it outrightly or simply sit on it until that Assembly expires.

Sometimes, the citizens also play into the hands of the executive without taking full cognisance of the age and nature of our democratic environment. In the US, it was since settled by the Supreme Court in Hollingswort v. Virginia way back in 1798 that presidential assent is not needed to bring constitution amendment Bill into effect. The US Supreme Court ruled that “the President of the United States has no formal role in the process of amending the Constitution of the United States”. It further held: “While it is permissible, a Presidential signature is unnecessary. By the same logic, a President is powerless to Veto a constitutional amendment, which has been officially proposed to the states to ratify. Further by the same logic, it is reasonable to infer that a state governor is uninvolved in the state’s Constitutional amendment process”.

However, in the case of our country, Nigeria, some of our learned colleagues, argued that the President must sign. The Supreme Court eventually weighed in favour of presidential assent. The result is there for all to see today. Many critical constitution amendments that scaled the huddles at the National and at least 24 State Assemblies were all killed by the simple refusal of successive presidents to sign.

I discussed these and other challenges in greater details in the lecture entitled “The Politics of Constitution Review in a Multi-Ethnic Society”, which I delivered at the Nnamdi Azikiwe University Awka in October 2015” as well as the paper entitled “Constitution Review in an Emerging Democracy: The Nigerian Experience”, which I delivered at the Paul Nitze School of Advanced International Studies, Johns Hopkins University, Washington DC in April 2014.

**Conclusion: Immediate Steps to Rescue the Nation**

If we consider constitution amendment proposals that failed in the 6th, 7th, and 8th National Assembly, it can be unequivocally concluded that the present dire situation we have found ourselves in as a nation, could have been avoided had we made hay while the sun shone.

So, in rounding off, I would like to further emphasise some of those amendments that were thrown overboard in the years past, but which have now become very imperative for our survival as a nation or formed the pressing demands by Nigerians and critical political pressure groups like the Nigeria Governors Forum, Southern Governors Forum, Northern Governors Forum, professional groups, the Civil Society Organisations, socio-cultural organisations, religious groups, respected leaders, and right-thinking Nigerians as we go into yet another round of constitution review exercise.

**Decentralised policing:** The fundamental principle underlying social contract is that citizens surrender parts of their rights and freedom in exchange of protection by the government. For this reason, the Constitution is clear that “*The security and welfare of the people shall be the primary purpose of government.”[[1]](#footnote-1)*. The Greek philosopher, Aristotle, has earlier posited that the state exists for the sake of life, and continues for the sake of the best life.

Unfortunately, no one is in doubt again that Nigeria has become a killing field. From East to West, North to South, Nigeria has become a kind of mass grave and anarchy rules. At the root of this anarchy is the decision of the military in 1966 to impose centralised policing on the nation against the letters, spirit, and principle of federalism as well as the obstinacy of successive civilian administrations and vested interests to keep it so even in the face of prevailing realities.

Section 214(1) of the 1999 Constitution provides that *“There shall be police force for Nigeria, which shall be known as the Nigeria Police Force, and subject to the provisions of this section,* ***no other police force shall be established for the Federation or any part thereof****.”* Subsection 2 of Section 215 provides that "The Nigeria Police Force shall be under the command of the Inspector-General of Police and contingents of the Nigeria Police Force stationed in a state shall, subject to the authority of the Inspector-General of Police, be under the command of the Commissioner of Police of that state”.

Interestingly, Nigeria operated decentralised police system from the colonial era up to the overthrow of the First Republic. The Native Authority Ordinance (No. 4 of 1916) vested the responsibility of the maintenance of law and order in the Native Authorities. Their powers towards this end was increased again by the Protectorate Laws (Enforcement) Ordinance No. 15 of 1924. A Nigeria Police Force, with nationwide jurisdiction, was only born in 1930, but co-existed with the Native Authority and the Local Administration police until 1966 when the General Yakubu Gowon Regime abrogated subnational police and enthroned unitary police system, which has brought us to this perilous state.

Some of us have been at the vanguard of the push to reintroduce decetralised policing, including state police and some form of policing at the Local Government level, but it appeared as if we were talking to the deaf. But today, it is encouraging that more and more Nigerians and potent political groups are beginning to see what we saw over ten years ago and are now leading the quest. Whereas this is coming so late in the day as terrorists, bandits, foreign militant herders, and kidnappers and all manners of violent criminals already have the nation by the jugular, it is nevertheless better late than never.

Anyone interested in more of my thoughts on decentralised policing may wish to refer to the paper, “Policing and National Security: The Choices Before Us”, being the Nnamdi Azikiwe University Annual Lecture, which I delivered on March 1, 2013 or “A Vote for State Police”, a back page piece I did in the February 15, 2018 edition of Thisday Newspaper, among several others.

Currently, The Bill for the Establishment of State Police, with provisions to guard against abuses in the hands of state chief executives, which I sponsored, is one of the Bills the National Assembly will be considering. This is the second time the Bill is coming before the Senate, having been sponsored in the 8th Senate. Let us hope that the nation does the needful this time around.

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**Devolution of powers**: One of the basic principles of federalism is power sharing between the centre and relatively autonomous federating units. Ideally, the federal government is usually in charge of matters such as defence, foreign policy, and currency. The states exercise some of the remaining powers concurrently with the central government (Concurrent List), while also been in full charge of others (Residual List). Unfortunately, what have experienced in Nigeria is that the federal government has become a behemoth, and even dog in the manger because it has bitten off much more than it can chew.

At independence, there were 44 items on the Exclusive List and 28 items on the Concurrent List. Today, the Exclusive Legislative List has swallowed 28 of those Concurrent Legislative items. They include items like arms and ammunition, bankruptcy and insolvency, census, commercial and industrial monopolies, drugs and poisons, fingerprints, identification and criminal records, labour, regulation of the legal and medical professions, national monuments, national parks, prisons, quarantine, registration of business names, traffic on federal trunk roads, etc. 7 items on the Residual List such as evidence, fishing and fisheries, public holidays, regulation of political parties, stamp duties, taxation of incomes, profits and capital gains; trade and commerce, have been lost to the Exclusive List. Not many people still remember that states had powers like diplomatic representations, appointment of judges without reference to a central body (National Judicial Council), and the right to have their own constitutions, their own coat of arms, etc. before the military struck.

As highlighted earlier, we initiated the gradual process of devolving these powers back to the component states in the 7th Assembly by transferring aviation, railway, power, stamp duty, etc. to the Concurrent Legislative List. The President refused assent.

Today, it is becoming clearer to many informed Nigerians that the country will never move forward until the central government sheds some weight and allow the devolution of power. Let us hope that better judgment prevails over sentiments and power-mongering this time around.

**Fiscal Federalism**

In the aforementioned Osgoode Hall Law School lecture in 2012, I had described ours as a “feeding bottle federalism” and warned that Nigeria would surely run into stormy weather very soon unless we reinvented our federalism, moving away from the current military-imposed “feeding bottle” federalism to enthrone one predicated on self-reliance, hard work, enterprise, resourcefulness, and ingenuity to catalyse development.

My good friend, Simon Kolawole had also in an insightful back page piece in the March 4, 2012 edition of Thisday Newspaper entitled “Federal Allocation and Our Future” given a graphic description of Nigerian federalism:

The story of Nigeria is like that of a father who has 36 children. A good father will encourage all his children to be creative and hard working so that they can make money to sustain themselves. A bad father will ignore the larger picture of every child being self-sustaining and insist on redistributing his children’s wealth.

Her we are, while other federations like the USA, Germany, Brazil, Canada, and even the United Arab Emirates are prospering, Nigeria has become a debt-guzzling nation. With an additional USD6.183 billion request by President Muhammadu Buhari, Nigeria’s debt profile will now stand at about N35.48 trillion. Our naira is loosing value by the day, something close to the Zimbawean dollar. Whereas the current administration promised to bring naira at per with the US dollar, a dollar now exchanges for nearly N500.

The sad news is that things are not going to change soon because we are not producing anything. The few productive businesses have been forced out of the country to our other West African competitors like Ghana. I pity the Central Bank of Nigeria Governor, Godwin Emefiele and his team because in the face of a mono-product economy where oil price has hit the bottom and oil is fast loosing relevance, in a situation where the Constitution encourages indolence among the states through monthly handouts vide the Federation Account Allocation Committee, in a situation where all the mineral resources are bizarrely vested in a Federal Government that is not ready to exploit them, and in a situation where we are producing next to nothing as a country, there is no magic to preserve the value of naira or prevent it from hitting the rock bottom.

In several of my previous papers on this matter, I had proved, with data from Raw Materials Research and Development Centre (RMRDC), Abuja that every state has what it takes to be prosperous, just as the emirates of UAE and states of Canada, USA, etc. are prospering.

**TABLE 1: NIGERIA SOLID MINERAL RESOURCES**

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| **STATE** | **MINERAL RESOURCES** |
| Abia | Glass sand, limestone, salt, shale, ball clay, galena, granite, marble, laterite, bentonite, phosphate, kaolin, pyrite, feldspar, petroleum, lignite, gypsum, sphalerite, clay |
| Adamawa | Granite, clay, gypsum, limestone, uranium, kaolin, coal, trona, barite, salt, marble, magnesite, laterite |
| Akwa Ibom | Clay, glass sand, salt, silica sand, granite, coal, petroleum, natural gas, kaolin, limestone, lignite |
| Anambra | Clay, iron stone, natural gas, petroleum, sand stone, kaolin, pyrite, lignite |
| Bauchi | Kaolin, trona, gypsum, cassiterite, mica, clay, tantalite, galena, iron ore, gemstone, sphalerites, silica sand, barite, columbite, zinc, lead, muscovite, quartz, columbite, tin, glass sand, salt, monazite, feldspar, graphite, wolfram, coal, agate, tantalum, rutile, tungsten, copper, talc, ilmenite, zircon |
| Bayelsa | Salt, petroleum, natural gas, silica sand |
| Benue | Bentonite, crude salt, petroleum, limestone, glass sand, Gemstone, barites, feldspar, marble, mica, silica sand, quartz, galena, lead, zinc ore, silica sand, clay, coal, gypsum, kaolin, anhydrite, calcium, sulphate, brick clay, crushed and dimension stone, fluorspar, wolframite, bauxite, shale, magnetite, ilmenite, brenite |
| Borno | Silica sand, natural salt, sapphire, topaz, mica, quartz, gypsum, uranium, iron ore, magnesite, feldspar, granite, aquamarine, nepheline, limestone, kaolin, bentonite, laterite clay, refractory clay, trona, gold, tin, potash, |
| Cross River | Salt, limestone, coal, manganese, mica, ilmenite, gold, quartz, glass sand, tourmaline, petroleum, natural gas, kaolin, tin ore, mica, sharp sand, clay, spring water, salt deposits, talc, granite, galena, lead zinc, tin ore, goethite,Muscovite, uranium, barites |
| Delta | Kaolin, lateritic clay, gravel, silica sand, natural gas, petroleum, ball clay, bauxite, granite, river sand, clay, spring water |
| Ebonyi | Lead/Zinc ore, salt, limestone, ball clay, refractory clay, gypsum, granite |
| Edo | Charnockite, copper, gold, marble, granite, gypsum, petroleum, diorite, lignite, limestone, ceramic clay |
| Ekiti | Clay, charnockite, quartzite, lignite, limestone, granite, gemstone, bauxite, cassiterite, columbite, tantalite, feldspar, kaolin |
| Imo | Crude oil, shale, natural gas, kaolin, laterite sand, limestone, salt, marble, |
| Jigawa | Glass sand, granite, laterite clay, silica, kaolin, iron ore, quartz, potash, talc, limestone |
| Kaduna | Muscovite, granite, gold, manganese, clay, graphite, sand, zircon, kyanite, tin ore, ilmenite, gemstone, columbite |
| Kano | Clay, laterite, cassiterite, columbite, ilmenite, galena, phyrochlorite, kaolin, gemstone, silica, tin ore, monazite, wolframite, thorium, granite, hyalite, kaolin, beryl, amethyst, gold |
| Katsina | Gold, Manganese, lateritic clay, feldspar, black tourmaline, amethyst, quartz, kaolin, mica, gypsum, silimanite, clay, granite sand, uranium, asbestos, tourmaline, serpentine (chresolite asbestos), chromites, ilmenite, diamond, graphite, iron ore, potash, silica sand |
| Kebbi | Salt, iron ore, gold, feldspar, limestone, quartz, bauxitic clay, manganese, kaolin, mica |
| Kogi | Clay, iron ore, gemstone, marble, limestone, feldspar, dolomite, phosphate, mica, cassiterite, granite, ornamental stone, coal, kaolin |
| Kwara | Clay, kaolin, silica sand, quartz, dolomite, marble, feldspar, gold, tantalite, cassiterite, granite, limestone |
| Lagos | Silica sand, bitumen, sharp sand, gravel, petroleum, laterite |
| Nassarawa | Cassiterite, gemstone, amethyst, beryl, chrysolite, emerald, garnet, sapphire, topaz, barites, galena, monazite, zircon, glass sand, coal |
| Niger | Ball clay, kaolin, limestone, granite, glass sand, iron ore, red clay, feldspar, gold, graphite, cyanite, silica sand, quartz, asbestos, marble, talc, gemstone |
| Ogun | Kaolin, feldspar, silica sand, mica, granite, clay, phosphate, gypsum, limestone, quartz, tar sand |
| Ondo | Marble, gold, gemstone, clay, diorite, lignite |
| Osun | Clay, granite, talc, dolomite, ilmenite, feldspar, quartz, limestone, mica, clay |
| Oyo | Clay, feldspar, granite, ilmenite, iron ore, kaolin, quartz, talc, marble, dolomite, tourmaline, aquamarine, amethyst |
| Plateau | Monazite, columbite, feldspar, clay, cassiterite, gemstone, kaolin, dolomite, mica, zircon, marble, ilmenite, barites, quartz, talc, galena |
| Rivers | Petroleum, natural gas, silica sand, glass sand, clay |
| Sokoto | Silica sand, clay, salt, limestone, phosphate, gypsum, kaolin, laterite, potash, granite |
| Enugu | Lateritic clay, kaolinitic clay, ball clay, iron-ore, glass sand, gas, petroleum, gypsum, coal, silica sand, ceramic clay |
| FCT – Abuja | Kaolin, limestone, granite, marble, feldspar, mica, dolomite, clay, sand, talc |
| Gombe | Graphite, kaolin, limestone, silica sand, uranium, coal, halites, clay, gypsum, diatomite, granite |
| Taraba | Fluorspar, garnet, tourmaline, sapphire, zircon, tantalite, columbite, cassiterite, barite, galena, gypsum, limestone, laterite, calcite, bauxite, magnetite, pyrite, lead/zinc ore |
| Yobe | Salt, trona, diatomite, clay, gypsum, kaolin, silica sand, limestone, epsomite, iron ore, trona, shale, uranium, granite, bentonitic clay |
| Zamfara | Gold, Alluvial gold, granite, chromites, charnockite, clay, feldspar, spring water |

Source: Source: Raw Materials Research and Development Council (RMRDC), Abuja, Nigeria

I have equally tried to disabuse the minds of those, who believe that fiscal federalism would spell doom for their states by reminding them that there is what is called Equity Fund, as is the case in Canada, which ensures that there is fairly even development across the country and makes it possible for less endowed and less prosperous states to benefit from the wealth of the entire nation in a reasonable manner.

**Equitable management of our diversity**

Never in the history of post-civil war Nigeria has the cry of marginalisation been so loud, and separatist agitations been so widespread. I think at the root of all this is the failure to manage our diversities with equity and justice. As I have often said, no man or a people unjustly treated will be interested in peace.

With the provisions of Section 14 of the 1999 Constitution entrenching the Federal Character Principle as well as Section 42 of the Constitution prohibiting discrimination against any Nigerian on the grounds of his/her community, ethnic group, place of origin, sex, religion, political opinion, etc., I believe we have fairly sufficient provisions in the 1999 Constitution to deal with our diversities. But what has happened over the years, and has become worse under the current administration, is a willful disregard for the constitution in appointments and dealing with some parts of the country. In fact, some sections of the country have been reduced to second-class citizens. I do not know how the current administration go to bed and sleep comfortably knowing that it has totally allienated the people of the South East and excluded them from the headship of the security and paramilitary agencies of the country. The President recently held a Security Council meeting with all the heads of the security agencies and they came up with a strategy to tackle the rising insecurity and restiveness in the South East region. But the snag is that no South Easterner was at that meeting. How on earth are you going to secure a region without the inputs of anybody from that region, who understands the inner workings of the region, their sentiments and peculiar challenges?

Apart from amendments to replace place state of origin with state of residency and equally ensuring that no Nigerian is denied employment, promotion, access to education, etc. simply because of where he or she comes from, much of what we need today is political will, leadership and statesmanship to weld the country together.

Canada’s unity was seriously challenges in 1958, with the French-speaking Quebec Province at the verge of breaking away from Canada. Quebec was greatly encouraged by former President of France, Charles de Gaulle. To keep the country together, the retiring Prime Minister, Lester Pearson, skipped all the senior English-speaking leaders of the Liberal Party and settled instead for a less experienced Joseph Philip Trudeau, father of the current Prime Minister of Canada, Justin Trudeau, as his successor. Under Trudeau, concessions such as reserving a third of the Permanent Secretary positions in the central government for French-speaking Canada were negotiated. It was further decided that there must be a French version of every official communication, promoting the bi-lingual society that Canada has become today.

President Halimah Yacob of Singapore is of Malay origin, a minority race in the country. Chinese constitute over 75% of Singaporean population, while Indians and Malays constitute most of the remainder in the multi-racial nation. But she was elected unopposed by the Parliament. It did not matter that Singapore, did not have a rosy experience in the Federation of Malaysia, which it had joined in 1963, but forced out in 1965.

At the twilight of the American civil war, Abraham Lincoln dropped his Vice President, Hannibal Hamlin, a fellow Republican during his second term bid in 1864. He settled for a “War Democrat”, Andrew Johnson from Tennessee, one of the 11 Confederate States that opposed the Union as his running mate. Beyond keeping the American union as one, which he had succeeded in doing, Lincoln was concerned about ensuring that the Confederate States did not feel like prisoners of war. He wanted to rebuild trust, national loyalty, unity, and ensure that every American was given a sense of belonging and pride in the American state and dream, irrespective of the side he fought for in the bloody war.

We must learn from America, which, in the words of President Joe Biden, took a vast continent and diverse people and molded them into a united representative of democracy, where people see themselves as Americans first and citizens of their regions second. We can forge a tightly knit union where no man feels oppressed.

The Nigerian Bar Association and individual lawyers must be at the vanguard of this crusade for inclusiveness of all parts of Nigeria in the government of the country and sharing in all the opportunities our nation provides as a way of managing our diversity. Else the voice of separatism will continue to rise.

**Status of the Local Governments**: It appears Nigeria is unsure of the local government system it wants to operate: the Canadian and US model where the local governments are the business of the federating units or the Indian model where the local governments constitute a third tear system of government. Today, the local governments still survive on the Federation Account courtesy of Section 7 (6) of the 1999 Constitution. But, at the same time, Section 7(1) explicitly provides that “The system of local government by democratically elected local government councils is under this Constitution guaranteed; and accordingly, the Government of every State, subject to section 8 of this Constitution, shall ensure their existence under a Law which provides for the establishment, structure, composition, finance, and functions of such councils”. In other words, while the local governments enjoy funding from the Federation Account, the states, which themselves hardly make their own contribution vide the State Joint Local Government Account, control the local governments.

Thus, it is quite difficult today to define the real status of the local governments within our federation. This has led to a lot of abuse of even the most ultraistic constitutional provisions such as the Joint Local Government Account (JAC) and Section 7 of the Constitution. So, going forward and considering the critical role Local Governments have to play in the security of lives and property of citizens and the development at the grassroots, we need to revisit the distribution of powers between the States and the Local Governments.

If we adopt the US and Canada model, then the Federal Government will have to completely hands off the local governments in terms of any form of regulation and funding. The Local governments become an entirely state affair and cease to draw funds directly from the Federation Account. The States will also create as many local governments as they feel adequate to bring government and development closer to the people. But if we adopt the Indian model, local governments will become a third tier of government in the true sense of it. Powers will be fully devolved to them to insulate them from the fiscal control and manipulations by the State.

Indeed we provided for the Indian model in the previous constitution amendments as earlier explained, but the State Houses of Assembly ensured that the amendments that included the abrogation of the States Independent Electoral Commission, provision for a uniform tenure for elected Councils, abrogation of the JAC to ensure that funds meant for LGAs go straight to them were not approved by the State Assemblies.

Learned colleagues, distinguished ladies and gentlemen, Nigeria is at crossroads and things are spiraling out of hand. But I believe that our nation is salvageable. But that is if all well meaning Nigerians rise to the occasion. This is not a time to trade blames. It is a time to come together to do the needful or go down in history as the undertakers of the Nigerian nation if the country fails in our time. Therefore, let all men of goodwill rise to the occasion. The time is now and the NBA should stand to be counted.

Thank you again for inviting me; and thanks for your attention.

God bless you, and God bless the Federal Republic of Nigeria.

1. Section 14 (2)(b)Constitution of the Federal Republic of Nigeria, 1999 [↑](#footnote-ref-1)