

## THE CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA, 1999: ANALYZING THE QUEST FOR AN AUTOCHTHONOUS CONSTITUTION

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### Abstract

*Nigeria is a multi-cultural, multi-ethnic and multi-religious country pieced together by the British colonial administration. Although, the country has remained one indivisible and indissoluble entity, the different regions maintain their distinct identities, and work towards varied aspirations. However, the current 1999 constitution of Nigeria, which is a product of the military administration that ruled Nigeria from 1983 to 1999, seems to create a federal system that disregard the diversities of the country and concentrate power in the center (federal government); yet, it purports in its preamble to be a constitution given by the people of Nigeria. Using the doctrinal approach, this paper appraised the claim of the 1999 constitution as a people-driven document against the backdrop of an autochthonous constitution. It found that the 1999 Nigerian constitution (as amended) lacks legitimacy as an autochthonous constitution because of the absence of participation of the people in the constitution-making process, and the fact that it was midwife by an illegal and unconstitutional military government. The paper also identified the features of the constitution that expose the arbitrariness of the military in foisting a constitution on the people of Nigeria without consensus, such as the over-concentration of revenue generating powers and revenue sharing in the center, and neglect of the federating states. The paper concluded that the Nigerian National Assembly should commence the process of making a new autochthonous constitution for the country to overturn the current 1999 constitution. It recommended that the new constitution should decentralize power to the federating states of Nigeria to meet the yearnings of the different regions of Nigeria.*

**Keywords:** Constitution, constitutionalism, federalism, autochthony, autochthonous. people-driven

### INTRODUCTION

A Constitution is a supreme document. It is sometimes referred to as the basic law or the grundnorm of a country. Put in another way, a constitution is a system of laws and basic principles that a state is governed by (Hornby, 2015: 326). The Nigerian Supreme Court per Uthman Mohammed JSC define the constitution in Attorney General of Abia State & 35 ors v. Attorney General of the Federation of Nigeria (2002) as the “grundnorm and the fundamental law of the land. All other legislations in the land take their hierarchy from the provisions of the constitution. The law recognizes the constitution as the norm that validates other norms. This is because the constitution is the yardstick or standard by which the validity of other legislations is tested”.

The Constitution distributes power horizontally and vertically between arms and tiers of government (Odike et. al. 2016: 267; Kana, 2021: 39). It also determines the functions of government and the relationship between the different tiers of government, and between government and its citizens (Hedling, 2017: 2). In the constitution of the Federal Republic of Nigeria, 1999 (as amended), there is no formal surrender of state rights neither is there any formal grants of constitutional rights by the federal government to the federating units (states) as it is in the United States constitution of 1787 (US Constitution Tenth Amendment; Suben, 1981: 130). Furthermore, there are no separate constitutions for federating states in Nigeria; rather, the federal constitution governs both the federal government and federating states. However, it does not make the federating states subordinate to the federal tier of government in matters that fall within their sphere of influence. Nonetheless, constitutional power is shared between the two tiers of government in such a way that power is concentrated more in the federal government, which also overrides state governments in the case of conflict.

In the exercise of allocated powers, the federal government exercises power at the centre whereas the states and local governments exercise their powers at the periphery in their assigned roles. Section 1(1) of the constitution provides for the supremacy of the constitution, which binds all authorities and persons throughout Nigeria. According to section 1(3), if any other law is inconsistent with the provisions of the constitution, the constitution will override it and that other law shall, to the extent of the inconsistency be null and void.

Since its enactment in 1999, the constitution of the federal republic of Nigeria as attracted criticism for lack of legitimacy owing to the fact that the processes leading to its adoption were laden with some form of compulsion and imposition by the military government, who did not have the mandate of the people to legislate it. This paper appraises the claims of legitimacy and autochthony of the 1999 constitution of Nigeria.

## **METHOD**

The Constitution of the Federal Republic of Nigeria, 1999 in its section 1(1) & (2) define Nigeria as a Federal Republic made up of thirty-six states, the Federal Capital Territory, Abuja and seven hundred and sixty-eight local governments. A Constitution that

provides for a federal state is not unique to Nigeria. In fact, the idea of a federation had its origin in the ancient Greek tradition of League City states (Lépine 2012: 30-31). One can also find the idea of some element of federation in the seventeenth century Dutch confederacy (Watts, 2008: 19). However, the idea of federalism emerged with great vitality and in a more formal sense in the United States Constitution of 1787 (Bhalla, 1984: 10).

Federalism thrives on a federation. Whereas a federation consists of a group of states with a central government but independent in internal affairs, federalism as a system of government, involves an arrangement whereby powers of government within a country are shared between a recognized nationwide government and a number of federating states or recognized territories existing separately and independent of each other (Ogunwa & Abasilim, 2024: 108). In a true Federal State, there are tiers of government that govern the same territory and people but each tier has, at least, its area of exclusive power over which it is autonomous. Federalism can be justified on the ground that it brings together people of a state or region with diverse background to form a government voluntarily that will act on their general problems (Mengie, 2016: 267-268). It allows a government within a federation to have its own apparatus for the conduct of its affairs.

The sharing of powers between identifiable political structures within a federal state ensures a coordinated move to provide good governance that can uplift the well-being of the people within a federal state (Igwenyi, 2019: 62). Nigeria's federalism is expressed in a written constitution through which governmental powers and functions are distributed among the tiers of government. The distribution of power ensures independence and exclusive responsibilities for each tier of government in their sphere of influence (Ogene, 2002: 25; Riker, 1964: 1).

The current state of the Nigerian federalism was not negotiated amongst the federating states nor were the federating states created by due process enshrined in the federal constitution. Rather, all the federating states were created by military decrees promulgated by a government that came to power through unconstitutional means (Oni & Faluyi, 2018: 15; Amah, 2016: 5). Notwithstanding, the constitution clearly delineates the powers of federating states independent of the central government and creates a symbiotic relationship between the two tiers of government. The federating states are not considered as mere agencies of the federal government. The states derive their authority from the

constitution just like the federal government. This means that states - and by extension - local government in Nigeria are not mere administrative units created for convenient management. Rather, they are constitutionally recognized tiers of government in Nigeria (see s.3 of the 1999 constitution).

Generally, all federal constitutions embody the principles of particularism, universality, compromise and consensus, which allows them to decentralize power to the federating state to express their individuality while upholding the unity of the nation (Ahmed, I.K. & Dantata, 2016: 9). In Nigeria, the distribution of power between the two tiers of government is rather lopsided in favor of the central federal government. Division of legislative power in the 1999 constitution is contained in two lists: the exclusive legislative list delineated exclusively for the federal government, and the concurrent list designated for both the federal government and federating states. Yet legislative conflicts between the two tiers of government in respect to the items on the concurrent list are resolved in favor of the federal government (Bielu, 2021: 171). Thus, Nigeria's federal system is sustained by several national institutions who perform a litany of functions in different sectors ranging from education, health, to social and development services (Omorieg & Onyeaku, 2020: 1), a situation that makes the remit of the federal government unnecessarily bogus.

## **CONSTITUTIONAL AUTOCHTHONY AND THE 1999 NIGERIAN CONSTITUTION**

Autochthons in Greek means native of a place (Strijdom, 2013: 79). Thus, whenever indigenous people make a constitution for themselves, it is regarded as autochthonous constitution (Oliver, 2017). Constitutional autochthony refers to the fact that a constitution is legally speaking a home-grown product or a product made willingly and without influence by a class of native of a country (Osipitan, 2004).

In other words, a constitution is only regarded as autochthonous if its enactment derives from the will, legitimacy and authority of the people who will be governed by constitution. This means that the constitution owes its validity and authority to local factor rather than a foreign legal process or an internally undemocratic process (Osipitan & Amusa, 2006: 16). For example, a foreign (colonial) driven constitution-making process (as was the case with all pre-independence constitutions) or an internally undemocratic or unconstitutional government driven process, such as a military government.

Our discussion of constitutional autochthony distinguishes between the legal validity of a constitution enacted by a military government from the legitimacy of the process. This is because the notion of an autochthonous constitution is based on the idea that a legitimate constitution should evolve from the free will of the people who are the sovereign in a democratic state (see s.14(2)(b) CFRN 1999) and not the imposition by an internal class of people that came to power through undemocratic means. Therefore, a constitution that does not evolve from the legitimate will of the people of a country is not an autochthonous constitution. This includes a constitution that is clearly enacted into force by the legislation of an undemocratic government, even if the constitution adopts the populist language of “We the people...” to sweeten its public appeal.

The need for an autochthonous constitution cannot be over emphasized. An autochthonous constitution reflects the culture and values of the people; it breathes life to the state and its organs. Thus, it is an aberration for any illegitimate government to purport to create the constitution, which must arise from the people. Where a group of persons who do not represent the people creates the constitution, it fails to fulfill the yearnings of the people and is doomed to collapse (Suberu, 2019: 20). Constitution making is a citizen-driven process that involves all segments of the society. It is beyond enacting into law a contrived document without the involvement of the generality of the citizens of a country. Thus, a mere promulgation into law of a constitution without the real involvement of the citizens of the country is tantamount to foisting on the people a constitution, which disregards the sovereign right of the people (Oni, 2023: 392).

According to Anyanwu (2004: 25), sovereignty resides with the people who are the citizens of the state. The right of sovereignty rightly vested on the citizens by the constitution cannot be transferred or delegated even temporarily to government officials or the Head of State (s.14(2) (a) & (b) CFRN 1999). The legal and moral powers of the people (sovereign) to fashion a constitution that regulates relationship in the state is grounded in the social contract theory (Weale, 2020: 417). As explained by Rousseau (1762), social contract is an unwritten agreement between the citizens and the state, where the citizens agree to give up some of their sovereign rights to the state in exchange for collective and individual security, and guarantee of welfare (Kumar & Aahire, 2024: 173). However, the social contract does not erode the sovereign right of the people to determine the political

structure by which they are governed (Lermack, 2007: 1403). Indeed, even the 1999 Nigerian constitution in section 14(2)(a) agrees with this proposition that “sovereignty belongs to the people of Nigeria from whom government through the constitution derives all its powers and authority”.

Notwithstanding, the 1999 Nigerian constitution itself is not a people-driven constitution worthy of being called an autochthonous constitution. Rather, it was promulgated by the military via a process kick-started and managed by them, which did not involve the generality of Nigerians. Ironically, the events leading to the making of the Constitution and its eventual promulgation into law by the Federal Military Government suggest otherwise. The making of the constitution started with the inauguration of the Constitutional Debate Coordinating Committee in November 1998 by the Federal Military Government in furtherance of its Commitment to hand over to a democratically elected civilian administration on 29th May, 1999 (Eresia-Eke, 2012: 85). The Committee was to “among other things, pilot the debate on the new constitution for Nigeria, coordinate and collate views and recommendations canvassed by individuals and groups for a new constitution for Nigeria”.

The Committee submitted a report of the public hearings to the Armed Forces Provisional Ruling Council, which approved it subject to amendments it deemed necessary in the interest of the public and “for the purpose of promoting the security, welfare, good governance and fostering the unity and progress of the people of Nigeria” (Ojo, 2014: 35-36). The Provincial Ruling Council promulgated the report into law, as the Constitution of the Federal Republic of Nigeria, 1999 (So-oriari & Francis, 2023: 238). The constitution came into effect on 29th May, 1999.

Although, a constitution is not a self-creating phenomenon, the manner in which it is created raises the question of legitimacy; hence, the need to democratically involve the generality of the citizens of the country in the constitution making process. Constitutionalism imports the idea that democratic and accountable government must adhere to the principle of constitutional limits on the power of government, and checks and balances of the arms of government (Odike 2006: 83). This means that an unconstitutional government lacks the constitutional power to amend, not to talk of creating a constitution. In other words, the power of a military government is limited by the body of fundamental

law, which only the sovereign (people) can make (Nwebo, 2019: 51-55). Therefore, the free will participation of the generality of citizens of a country in the making of their constitution is a deliberate general affair, which clothes legitimacy and involves:

- a) Setting up a democratically elected constituent assembly members solely for the purpose of making a constitution (Nwebo, 2019:: 60-61). Usually, the resolutions of the constituent assembly are reduced into a draft constitution. This is much more fundamental than appointing a committee charged with the responsibility of coordinating and collating views and recommendations made by individuals and groups for a new constitution.
- b) Subjecting the resolutions of the constituent assembly - that has been reduced into a draft constitution - to a referendum or a plebiscite. The referendum or plebiscite gives the generality of the people or the citizens of a country the opportunity to either ratify the draft constitution or reject it (Osipitan, 2004: 38).

The Federal Military Government did not follow the above process in making the 1999 constitution of Nigeria. The Provincial Ruling Council merely promulgated into law the report of the Constitutional Debate Coordinating Committee as amended by it. The constitution of any country is that country's fundamental law; the only valid document to give birth to a government and its organs (Adegbite, 2019: 78-79). That is why the government and its organs derive all of their powers from the constitution. Therefore, it is arithmetically inconceivable, and legally illogical for any government, not to talk of an unconstitutional and undemocratic Federal Military Government to create the constitution of Nigeria or superintend the making of the constitution in an undemocratic manner.

The power to create a constitution belongs to the sovereign (people) and not to any government because the government and its organs are creation of the constitution. It is from the free will of the people that an autochthonous constitution can emerge. This is why section 14(2)(a) of the 1999 Nigerian constitution provides that the government derives all its powers and authority from the constitution. Thus, a people-driven constitution must evolve from the free will of the people. What legitimizes a constitution is the free will of the people and not a promulgated military order. Internal freedom is important in the making of a people-driven constitution, and so, the appeal to public sentiment of "we the people of Nigeria" that preceded the 1999 constitution is a legal fallacy in its strictest interpretation.

## THE IMPERATIVE OF A PEOPLE DRIVEN CONSTITUTION IN NIGERIA

Although, the Constitution of the Federal Republic of Nigeria, 1999 espouses some of the essential features of a federal state with a written constitution, these features nonetheless fall short of qualifying the constitution as autochthonous for reasons already discussed above. The lack of consensus, unanimity and compromise reflected quite conspicuously in the constitution, resulting in inconsistencies and lopsidedness in some of the most fundamental aspects of a federal constitution. For example, the power sharing formula between the tiers of government was skewed in favor of the federal government at the detriment of the federating states and local governments, even when this was at variance with the provisions of the first people-driven Nigerian constitution of 1963 (Edet et al 2023: 1187; Uguru et. al. 2016: 506).

It is inconceivable that a people-driven constitution will grant the federal government the right to exercise exclusive legislative power on sixty-six (66) items and still share legislative powers with federating states on remaining thirty (30) items in the concurrent list where the federal government still exercises overriding authority. What is the point of granting exclusive power to the Federal Government over items such as post, telegrams, telephone and minerals when these items can be best managed by federating states? Because of this lopsided federal/state government power dynamics, the constitution heavily concentrates revenue generating powers and allocation or distribution of revenue in the hands of the federal government, so that any group of persons from one region who captures power at the federal level completely dominates the political system (Mandaci & Tepeciklioğlu 2018: 408-409).

This uneven power sharing arrangement not only downgrades the effectiveness and autonomy of federating states in Nigeria, but also hampers the smooth coordination of services, fairness, equity and delivery of good governance at both the federal and federating state levels (Obidimma & Obidimma, 2015: 150-151). It results in an unnecessary expansion and bogus governance at the federal level (Ogunwa & Abasilim 2024: 117). For instance, the constitution requires the appointment of at least 36 federal ministers (s. 147(3)) in a federation with an economy of only \$1,930 Gross National Income (GNI) per capita compared to the United States with an economy of \$80,300 GNI per capita, which has only twenty six (26) secretaries or ministers (World Bank, 2024).



The uneven balance of access to taxation pools between federating states and the federal government has made it difficult for poorer federating states in Nigeria to finance their governmental activities thereby making it difficult to guarantee the security and welfare of their people, which is constitutional obligation for both states and a Federal Government (s.14(2)(b) CFRN 1999). The poor status of some federating states in Nigeria has made them dependent on the federal government unlike other federal states, such as the United States (Bulmer, 2017: 7-8; Vande, 2021: 14).

For example, the federal government in the United States does not collect the largest revenue neither do states demand federal grants or request that they should be allowed to access other sources of revenue in order to bring development or carry out some of the more costly functions of government (Stotsky & Sunley, 1997: 363-364; Bhalla 1984: 29). It could therefore, be argued that the overriding control of the federal government over financial matters in the 1999 Nigerian constitution accounts for the reason why federating states follow the directives of the federal government in Nigeria, with the evidential consequence of poor public service, public complaints, frustration and dissatisfaction (Ukwueze, 2009: 186). An unbalanced access to sources of revenue in Nigeria greatly diminishes the position of federating states as partners in the federation and weakens the independent role and status of states as equal partners under the 1999 Nigerian constitution.

From our argument so far, it is clear that the shortcomings already identified in the current Nigerian exists because the constitution itself was contrived and promulgated by an undemocratic and unconstitutional military government, which lacked legitimacy and could not have given Nigeria an autochthonous or people-driven document. This realization presents a clear and important reason to overturn the 1999 constitution and set in motion activities to adopt a more people-driven and autochthonous constitution. Indeed, if federalism entails a spatial as well as functional division of powers, the legal relationship between the federal government and the federating units as prescribe by the current constitution must be reviewed to ensure that the federating units are truly independent of the federal government.

## **Political Pluralism and Constitutionalism**

As the debate deepens on the need for Nigeria to revise the 1999 constitution to truly reflect the democratic aspirations of a multi-ethnic and multi-religion country, there is yearning need to also address the issues of political pluralism and constitutionalism (Agbibo, 2017: 1-2). Political pluralism recognizes that there are diverse experiences and interests in every political entity, and as such, the different interests must be permitted to co-exist peacefully while maintaining national unity (Afisi, 2017: 7; Kymlicka, 2002: 56-58). Essentially, political pluralism advocates the practice of pluralist democracy that is only possible in Nigeria under an autochthonous constitution given the multi-cultural, multi-ethnic and multi-religious diversities of the country as against a militaristic and unitary constitution. Pluralist democracy cannot thrive under a constitution such as the 1999 Nigerian constitution, which has concentrated so much power at the centre and constituted the federal government as an overlord over the federating states (sub-nationals).

The process for a new autochthonous constitution for Nigeria must emanate from the Nigerian National Assembly, which comprises of the elected representatives of the Nigerian people. Once a new draft constitution is achieved through the National Assembly, this should be submitted to the thirty-six (36) federating state houses of assembly for ratification by at least two-thirds of the state assemblies as already prescribed in the 1999 constitution (s.9(2) & (3)). The aftermath of the ratification can then be subjected to a national referendum conducted at state levels by the electoral body of Nigeria, the Independent National Electoral Commission (Eresia-Eke, 2012: 79). If this process is followed, it may perhaps bring Nigeria closer to a people driven autochthonous constitution in which all the regions and interests in the country will be accommodated. The current piecemeal approach of the Nigerian National Assembly to amend the 1999 constitution rather than overturn it completely will not achieve the desire objective of creating an autochthonous constitution for Nigeria, as long as the participation of the generality of the people is not sought (Amah, 2017: 152). Although, such amendments in the long run may improve on the obvious inequalities and injustices in the current constitution however, this may be completely cure the deficiencies inherent in the document to achieve an autochthonous constitution (Suberu, 2022: 2).

## CONCLUSION

Undoubtedly, a constitution is a map of distribution of power and the protocol of survival, continuity and stability for a political society. It is a necessary element for the sustainability of any democratic system. As a supreme law of the country, it is the most sacred and solemn document of the state that should sufficiently reflect the will of the people. Indeed, our analysis in this paper found that the 1999 Nigerian constitution does not reflect the will of the different peoples of Nigeria, it lacks legitimacy and thus, it is not an autochthonous constitution. Therefore, there is an urgent need to adopt a new constitution for the federal republic of Nigeria, which will reflect the will of the people, achieve equity and fairness in the distribution of power and resources in the policy, and give federating states in the country the liberty to develop at their different pace.

In order to achieve the objective of adopting an autochthonous constitution for Nigeria, the paper recommended the process must begin from the national legislature, involve the current thirty-six sub-state legislature, and end with a referendum of all eligible Nigerian voters who would express their will to be governed under the new political arrangement established in the peoples' constitution.

## REFERENCES

- Adegbite, O.B. (2019). Between Chasms and Contours: Revisiting Constitutional Legitimacy and the Quest for a Progressive Constitutional State in Nigeria. *Africa Journal of Comparative Constitutional Law*. 77-102.
- Afisi, O.T. (2017). Political Pluralism, Nationalism and Cosmopolitanism. *Unilag Journal of Politics*. 9(2).
- Agbibo, D.E. (2017). *Federalism and Group-Based Inequalities in Nigeria. Accounting for Change in Diverse Societies*. (Global Center for Pluralism, Canada, March 2017). available at: [https://www.pluralism.ca/wp-content/uploads/2017/10/Nigeria\\_EN.pdf](https://www.pluralism.ca/wp-content/uploads/2017/10/Nigeria_EN.pdf) (Last accessed 11th September, 2024).
- Ahmed, I.K. and Dantata, B.S. (2016). Federalism and National Integration: The Nigerian Experience. *Historical Research Papers*. 35. 8-13
- Amah, E.I. (2016). Federalism, Democracy and Constitutionalism: The Nigerian Experience. *Journal of Law, Policy and Globalization*. 53. 1-14.
- Amah, E.I. (2017). Nigeria—The Search for Autochthonous Constitution. *Beijing Law Review*. 8. 141-158.
- Anyanwu, C.U. Of Sovereignty, Grundnorm, Autochthonous Conference and the Stability of Decolonized Federal State. In Gidado et al (eds.) *Constitutional Essay in Honour of Bola Ige*. (Enugu: Chenglo Ltd. 2004).
- Bhalla, R.S. (1984). *Essays in Constitutional Law of Nigeria*. (Jos: University Press.

- Bulmer, E. (2017). *Federalism: International IDEA Constitution-Building Primer 12* (2nd ed. Stockholm, International IDEA).
- Edet, J.E., Nabiebu, M., Otu, M.T., Agi, A.U. & Ijomah, A. (2023). Shaping Public Policy Through Constitutionalism: Nigeria's Constitutional Development and the Quest for an Autochthonous Constitution. *Migration Letters*. 20(S8). 1180–1194.
- Eresia-Eke, A. (2012). The Contradictions of Constitution-Making in Nigeria. *African Research Review*. 6(4). 76-92.
- Ezeabasili, I.E (2005). *International Relations, Concepts, Theories and Analysis*. Landmark, Nigeria.
- Hedling, N. (2017). The Fundamentals of a Constitution. *International IDEA: Constitution Brief*. (February, 2). Available at: <https://www.idea.int/sites/default/files/publications/the-fundamentals-of-a-constitution.pdf> (Last accessed 11th September 2024).
- Hornby, A.S. (2015). *Oxford Advanced Learner's Dictionary*, 9th Edition (London: Oxford University press).
- Igwenyi, B. O. (2019). *Modern Constitutional Law in Nigeria*. 2nd edition (Abakaliki: Global Publishing Co. Ltd.
- K.J. Bielu, (2021). Applicability of the Doctrine of Covering the Field under the Nigerian Tax Law: Pitfalls in Attorney-General of the Federation v. Attorney-General of Lagos State. *Int'l Review of Law & Jurisprudence*. 3(3). 167-174.
- Kana, A.A. (2021). Vertical Power Sharing in Nigeria's Federal System: Issues, Challenges and Prospects. *Int'l Review of Law and Jurisprudence*. 3(1).
- Kumar, V. and Aahire, A.K. (2024). Revisiting Rousseau's social contract theory through the lens of politico-moral philosophy. *Int. J Political Sci Governance*. 6(1). 173-176.
- Kymlicka, W. & Magda, O. (2002). *Can liberal Pluralism Be Exported? Western Political Theory and Ethnic Relations in Europe*. Oxford: Oxford University Press.
- Lépine, F. (2012). A Journey through the History of Federalism Is Multilevel Governance a Form of Federalism? *L'Europe en formation*. n<sup>o</sup> 363 Printemps.
- Lermack, P. (2007). The Constitution Is the Social Contract So It Must Be a Contract...Right? A Critique of Originalism as Interpretive Method. *William Mitchell Law Review*. 33(4). 1403-1445.
- Mandaci, N. and Tepeciklioğlu, E.E. (2018). Whither Nigerian Federalism? Federal Arrangements as Conflict Management Devices. *Igd Univ Jour Soc Sci Sayı*. 14. 399-418.
- Mengie, L.T. (2016). Federalism as an Instrument for Unity and the Protection of Minorities: A Comparative Overview: Ethiopia, India and the US. *Mizan Law Review*. 10(2). 265-295.
- Nwebo, O.E. (2019). Federalism under the 1999 Constitution: The challenge of restructuring and democratic legitimacy. In Adeola and Jegede (eds.) *Governance in Nigeria Post-1999: Revisiting the Democratic 'New Dawn' of the Fourth Republic*. Pretoria University Law Press (PULP, 2019). 43-63.
- Obidimma, A.E. and Obidimma, E.O.C. (2015). Restructuring the Nigerian Federation for Proper Functioning of the Nigerian Federalism. *Public Policy and Administration Research*. 5(9). 147-157.
- Odike, E.A. (2006). Nigeria's Federalism: A Myth or Reality. *Abakaliki Bar Journal*, 1(1).
- Odike, E.A., Faga, H.P. and Nwakpu, I.W. (2016). Incorporation of Fundamental Objectives and Directive Principles of State Policy in the Constitutions of Emerging Democracies: A Beneficial Wrongdoing or a Democratic Demagoguery? *Beijing L. Rev*. 7. 267.

- Ogene, O.S. (2002). *Fashioning the Constitution of the Federal Democratic System: A Comparative Analyses of Nigeria, Australia, Canada and the United States Representative Systems*. (Enugu: CIDTAP Press).
- Ogunwa, S. A. & Abasilim, U. D. (2024). Democracy, federalism and governance in Nigeria. *Journal of Governance and Development*. 20(1). 105-127.
- Ogunwa, S. A. & Abasilim, U. D. (2024). Democracy, federalism and governance in Nigeria. *Journal of Governance and Development*. 20(1). 105-127.
- Ojo, E.O. (2014). The Military and the Challenge of Democratic Consolidation in Nigeria: Positive Skepticism and Negative Optimism. *Journal of Military and Strategic Studies*. 15(4). 9-37.
- Oliver, P. (2017). Autochthonous Constitutions. In R. Grote, F. Lachenmann & R. Wolfrum, (eds.) *Max Planck Encyclopedia of Comparative Constitutional Law* (Oxford University Press).
- Omoregie, E.B. and Onyeaku, C. (2020). Legal Framework of State Role in Public Safety and Public Order. *NILDS Legal Issue Brief*. 1(1). 1-4.
- Oni, E. and Faluyi, O. (2018). Federalism, Military Legacies and the Restructuring Debate in Contemporary Nigeria. *African Journal of Governance and Development*. 7(2). 1-23.
- Oni, S.O. (2023). Constitutional Autochthony: Nigeria and Ghana Perspectives. *International Journal of Research and Analytical Reviews*. 10(3). 385-395.
- Osipitan, T. (2014). *An Autochthonous Constitution for Nigeria myth or reality?* Lagos: University of Lagos Inaugural Lecture Series, University of Lagos Press.
- Osipitan, T. and Amusa, K.O. (2006). The Search for Legitimacy of the 1999 Constitution. N. Tobi (ed.) *A Living Judicial Legend: Essays in Honour of Hon. Justice A.G. Karibi Whyte* (Lagos: Jericho publishers). 15-30.
- Riker, W. (1964). *Federalism Origin Operation and Significance*. (Boston USA; Little Brown Publishing Co.
- Rotimi, A. & Yinka, F. (2015). *Introductory Text in Political Science*. Omuaran: Landmark University Press.
- Rousseau, J.J. (1762). *The Social Contract or Principles of Political Right*. Translated by G. D. H. Cole (London and Toronto: J.M. Dent and Sons, 1923).
- So-oriori, J. and Francis, T.A. (2023). The Impact of Military Rule on Constitutional Development in Nigeria. *The Journal of Law and Policy*. 3(2). 231-263.
- Stotsky, J.G. and Sunley, E.M. (1997). United States. In Ter-Minassian, T. (ed.) *Fiscal Federalism in Theory and Practice*. (International Monetary Fund). 359-383.
- Strijdom, J. (2013). A Political Problem in Inter-human Relations: Autochthony in Ancient Greek and Modern African Thought and Practice. *Phronimon*. 14(1). 79-92.
- Suben, M. (1981). Federal Grants and the Tenth Amendment: Things as They Are and Fiscal Federalism. *Fordham L. Rev.* 50. 130-154.
- Suberu, R. (2019). Nigeria's Permanent Constitutional Transition: Military Rule, Civilian Instability and 'True Federalism' in a Deeply Divided Society. *Forum of Federations: Occasional Paper Series*, no. 34, Ottawa, Ontario (Canada).
- Suberu, R.T. (2022). Ethnic Inequality, the Federal Character Principle, and the Reform of Nigeria's Presidential Federalism. *United Nation University WIDER Working Paper 2022/113*. October, 2022. Available at: <https://www.wider.unu.edu/sites/default/files/Publications/Working-paper/PDF/wp2022-113-ethnic-inequality-federal-character-principle-reform-Nigeria->

[presidential-federalism.pdf](#) (Last accessed 14th September, 2024).

- Uguru, U., Faga, H.P. & A.D. Obiekwe, (2016). The Role of Innovation in the Economic Development of Nigeria. *Int'l J. Innovative Research & Dev.* 5(6). 500-518.
- Ukwueze, E.R. (2009). Local Government and Fiscal Federalism in Nigeria. *Jos Journal of Economics.* 4(1). 174-194.
- Vande, P.T. (2021). Fiscal Federalism and the Politics of Revenue Allocation in Nigeria. *Zamfara Journal of Politics and Development.* 1-19.
- Watts, R.L. (2008). *Comparing Federal Systems.* 3rd ed. (Montreal: McGill-Queen's University Press.
- Weale, A. (2020). Contractual Constitutions. In Weale, A. (ed.) *Modern Social Contract Theory.* Oxford University Press. 417-430.
- World Bank, (2024). Gross National Income Per Capita 2023, Atlas Method and PPP: World Development Indicators database. 1 July 2024. Available at: <https://datacatalogfiles.worldbank.org/ddh-published/0038128/DR0046435/GNIPC.pdf?versionId=2024-07-01T12:43:25.7145590Z> (Last accessed 14th September, 2024).

### **Judicial Authorities**

- Attorney General of Abia State & 35 ors v. Attorney General of the Federation of Nigeria (2002) 6 NWLR (Pt. 763) 497.
- Attorney General of Federation v. Attorney General, Lagos State (2013) 16 NWLR (Pt. 1380) 249 SC
- CAN v. INEC (2013) 13 NWLR (Pt.1370) 161 SC
- Okotie Eboh v. Ebiowo Manager (2004) 18 NWR (Pt. 905) 242.
- Orhium v. F.R.N (2005) 1 NWLR (Pt.906) 59 SC.