

# CHAPTER 10

## RESTRUCTURING NIGERIA'S FEDERALISM POST-1999: HOW SHOULD NIGERIA FEDERATE AND SHARE RESOURCES?

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### 1 Introduction

Federalism contemplates a 'political contrivance',<sup>1</sup> the purpose of which is to create a system of governance in a heterogeneously diverse society with the purpose of consolidating difference and bridging identities. Federalism as a system of governance has its benefits, one of which is that it seeks to manage the tension between various groups within societies. The details on how to advance this form of governance is often set out in a constitution which divides power 'between the common or national government and the separate states'.<sup>2</sup> However, for federalism to function in most heterogeneous societies, a commitment towards contrivance is integral to its operation. Conversely, when 'contrivance' is advanced without genuine commitment to national unity, the legitimacy of federalism as a viable system of governance becomes doubtful. It is on this premise that the discourse on restructuring in Nigeria has emerged in Nigeria post-1999.

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1 AV Dicey Law of the constitution (1927) 139; NML Rogers 'The political principles of federalism' (1935) 1 *The Canadian Journal of Economics and Political Science* 337; M Burgess *Comparative federalism: Theory and practice* (2006) 104.

2 Dicey (n 1) 139. See the Constitution of the Federal Republic of Nigeria (1999) (1999 Nigerian Constitution).

Scholars from many disciplines have critiqued the character of Nigeria's federalism,<sup>3</sup> from the position of testing the hypothesis that there is indeed a commitment to it beginning from the introduction of regional units in the formation of a federated state of Nigeria in the 1940s. The unease with which the federal structure has cultured Nigeria's political development has led to calls for a change in the political rhetoric through the verbal imprints of restructuring.<sup>4</sup> Central to the quest for restructuring is the presupposition that existing structural arrangements are failing. This begs the question: In what areas is restructuring needed? In considering this question, this chapter considers two points: the Nigeria federation and the question of resources. These issues are considered in turn in this chapter.

## 2 Much ado about restructuring

It would appear that in recent years there is a prevalent agreement that Nigeria's political structure is in need of a systemic overhaul or some form of adjustments that need to proceed from a place of conscious political will. In the dawn of the Fourth Republic, this was captured in the inaugural speech of President Olusegun Obasanjo which he entitled 'The

- 3 See generally A Somide 'Federalism, state creation and ethnic management in Nigeria' in BA Ojo (ed) *Problems and prospects of sustaining democracy in Nigeria* (2001) 19; R Suberu & LJ Diamond *Federalism and ethnic conflict in Nigeria* (2001); JI Elaigwu *The politics of federalism in Nigeria* (2007); AS Obiyan 'The federal state in Obasanjo's Nigeria: Coordinate relationship or imperial order?' in AS Obiyan & K Amuwo (eds) *Nigeria's democratic experience in the Fourth Republic since 1999: Policies and politics* (2013) 85; LA Jinadu 'The federal idea in Nigeria: From the beginnings to 1946' in O Ibeanu & MJ Kuna (eds) *Nigeria federalism: Continuing quest for stability and nation-building* (2016) 21; D Babalola *The political economy of federalism in Nigeria* (2019).
- 4 See generally M Abutudu 'Federalism, political restructuring and the lingering national question' in S Adejumobi (ed) *Governance and politics in post-military Nigeria* (2010) 23; R Sekoni 'The nationality question: Imperative for national restructuring' *Nigerian Muse* 28 March 2010; S Ikemitan 'Calls for restructuring Nigeria: Smokescreen or reality?' *Punch* 16 September 2016; K Moghalu 'Between Biafra and restructuring Nigeria' *Vanguard* 7 June 2017; J Campbell 'Arguments for the restructuring of Nigeria' *Council on Foreign Relations* 14 June 2017; E Aziken et al 'Nigeria: What is restructuring?' *Vanguard* 30 June 2017; S Ikemitan 'Does Nigeria really need political restructuring?' *Punch* 30 June 2017; Y Odumakin 'Ten reasons to restructure Nigeria' *Vanguard* 19 September 2017; NA el-Rufai 'Next generation Nigeria: What is restructuring and does Nigeria need it?' *Africa Programme Meeting Transcript*, Chatham House, 21 September 2017; PS Ojonemi et al 'Ethnic agitations and restructuring question in Nigeria: The aftermath of 2015 General Elections' (2017) 5 *International Journal of Innovative Social Sciences and Humanities Research* 14; 'Atiku explains why Nigeria cannot ignore restructuring' *Channels Television* 1 September 2018; A Oluwadare 'Nigeria and the national question' *Punch* 18 October 2017; R Akeredolu 'Restructuring and Nigeria's development' *The Nation* 19 October 2018; K Oderemi 'National question and restructuring as unsettled matters' *Nigerian Tribune* 4 November 2018; 'Restructuring Nigeria – Discordant tunes in the presidency' *The Guardian* 19 November 2018; D Pilling "'Cobbled together": Nigeria's federal system shows the strain' *Financial Times* 21 November 2018; O Fasan 'Why Nigeria must be restructured' *Vanguard* 6 December 2018; AI Abbas & SG Wakili 'Agitation for restructuring and resource control in Nigeria's federalism: Issues, perspectives and the way forward' (2018) 6 *Covenant University Journal of Politics and International Affairs* 1; PC Aka 'Why Nigeria needs restructuring now and how it can peacefully do it' (2018) 46 *Denver Journal of International Law and Policy* 123; A Jemide 'Restructuring Nigeria: In search of visionary leaders' *Business Day* 2 April 2019; 'Failure to restructure will mean annihilation – Obiora Okonkwo' *Vanguard* 21 April 2019.

New Dawn'.<sup>5</sup> This title was used to stress the need to change the 'ways of governance and of doing business ... to ensure progress, justice, harmony and unity and above all, to rekindle confidence' among the Nigerian people.<sup>6</sup> However, 20 years later there still is a popular dissatisfaction with the form of democratic governance which shows through the constant calls for restructuring.

The term itself has gained significant momentum in various walks of life as a cognomen for almost all things that is wrong with Nigeria. Yet, there is something to be said about its meaning as a process one which seeks to centrally serve both as a means and an end of how power should be shared and organised among the national and sub-national governments. As result, restructuring is a catch-all that both critiques the system of governance and the modalities for adjusting the process of governance. Much of the debate on restructuring essentially relates to change although it appears to politically avoids the word 'change' given that 'change' was integral to the political narrative that led to the electoral transition from the Jonathan-led government to the Buhari-led government.

While the term 'restructuring' has also gained a life of its own as a synecdoche for various issues in Nigeria in need of change,<sup>7</sup> its relevance to the discourse on democratic governance in Nigeria primarily revolves around devolution of power. Embedded in this narrative is the constitutional distribution of power between the federating units. While the next part considers the issue of restructuring with regards to the structure of the federation, the fourth part examines this issue with respect to resources.

5 Inaugural speech by His Excellency, President Olusegun Obasanjo (29 May 1999).

6 As above.

7 See AI Ogbo et al 'Strategic restructuring for effective police system in Nigeria' (2014) 3 *Journal of Governance and Regulation* 163; AN Ukaejiofo & IS Nnaemeka 'The dilemma of restructuring the land governance system in Nigeria' XXV FIG International Congress: Engaging the Challenges, Enhancing the Relevance Kuala Lumpur, Malaysia 16-21 June 2014, [https://www.fig.net/resources/proceedings/fig\\_proceedings/fig2014/papers/ts01c/TS01C\\_ukaejiofo\\_nnaemeka\\_7169.pdf](https://www.fig.net/resources/proceedings/fig_proceedings/fig2014/papers/ts01c/TS01C_ukaejiofo_nnaemeka_7169.pdf) (accessed 27 April 2019); J Ugoani & G Ibeonwo 'Public enterprise restructuring: A study of Nigeria's privatisation programme and unemployment rate' (2015) 3 *International Journal of Economics, Commerce and Management* 1; U Atueyi 'Transport sector restructuring crucial to Nigeria's economic prosperity, says Oni' *The Guardian* (Nigeria) 5 May 2017; T Princewill 'What must we restructure if not education in Nigeria?' *Vanguard* 30 August 2017; R Sekoni 'Restructuring: Of the polity or the mind' *The Nation* 3 September 2017; A Pearse 'Restructuring the Nigerian economy' *The Guardian* 10 May 2018; A Okon 'ICCN seeks restructuring of govt spending' *Punch* 15 June 2018; S James 'Restructure the people's poverty level' *This Day* 22 October 2018; O Orekunrin 'Restructuring health care system in Nigeria' *Vanguard* 28 October 2018; A Folorunsho 'Govt needs to restructure Nigeria's tax in line with national tax policy to grow revenue' *Business Day* 9 November 2018; R Choji 'Why Nigeria police force needs restructuring - Lame' *Leadership* 23 November 2018; E Anokam 'Group calls for restructuring of mortgage refinancing company' *Environews* 2 January 2019; O Udegbonam 'Nigerian govt begins restructuring, recapitalisation of Bank of Agriculture' *Premium Times* 16 April 2019.

### 3 Restructuring the federation

The discourse on the structure of the federation has been at the fore of the debate of restructuring cutting across both the three tiers of government – national, state and local governments and the three arms of government – executive, legislative and judiciary. Much of the debate relates to the constitutional distribution of power: what is allowed under the exclusive legislative list that needs to be shared between the federal and state governments;<sup>8</sup> the role of the local government *vis-à-vis* the role of the federal and state government. On the later issue, there is a prevalent persuasion that the local government is integral to governance as it is closer to the people and can serve to ventilate how people want to be governed, hence fostering subnational accountability.<sup>9</sup> While the 1999 Constitution explicitly recognises local governments as a distinct part of the structure of the federation,<sup>10</sup> its fiscal autonomy and the nature of its relations with the state governments is not explicitly delineated.<sup>11</sup> As such, there is a prevalent perception of ownership by state governments of the local government structures within the states which has precipitated calls for restructuring. The uneven distribution of local governments across the geopolitical zone with the south-east having the lowest, has also lent credence to the call for restructuring the federation.<sup>12</sup>

Notably, one of the prominent issues that has emerged in the discourse

- 8 There are 68 items in the exclusive legislative list in the purview of the federal government under the 1999 Nigerian Constitution, while only eight items are listed in the concurrent legislative list for both the federal and state governments. It has been argued that there is a need to interrogate to presence of issues such as police, tourism, public holidays, as with resources in the exclusive legislative list as part of the process of restructuring Nigeria. See 1999 Nigerian Constitution (n 2), Second Schedule, Parts I and II. See also E Azinge 'Fundamentals of restructuring' *Vanguard* 13 July 2017.
- 9 See FD Nwazor 'Time to restructure Nigeria's local govt system' *Daily Trust* 4 November 2016; E Onyekpere 'Restructuring and enhanced subnational accountability mechanisms' *Punch* 22 October 2018.
- 10 Art 7(1) of the 1999 Nigerian Constitution provides that '[t]he system of local government by democratically elected local government councils is under this Constitution guaranteed; and accordingly, the government of every state shall, subject to section 8 of this Constitution, ensure their existence under a law which provides for the establishment, structure, composition, finance and functions of such councils'. See 1999 Nigerian Constitution (n 2) art 7(1).
- 11 Art 162(5) of the 1999 Nigerian Constitution provides: 'The amount standing to the credit of the Local Government Councils in the Federation Account shall also be allocated to the State for the benefit of their Local Government Councils on such terms and in such manner as may be prescribed by the National Assembly.' Art 162(6) of the 1999 Nigerian Constitution provides that '[e]ach State shall maintain a special account to be called "State Joint Local Government Account" into which shall be paid all allocations to the Local Government Councils of the State from the Federation Account and from the Government of the State'. See 1999 Nigerian Constitution (n 2 above) art 162; OS Abdulhamid & P Chima 'Local government administration in Nigeria: The search for relevance' (2015) 18 *Commonwealth Journal of Local Governance* 181; 'Restructuring the local government systems' *This Day* 23 September 2016; OK Ohiole & IS Ojo 'The place of local government in the Nigerian federal framework authority or servitude' (2014) 9 *Journal of Policy and Development Studies* 301 304; EI Amah 'Devolution of power to local government: Appraising local government autonomy under Nigerian federation' (2018) 9 *Beijing Law Review* 275.
- 12 'Failure to restructure will mean annihilation – Obiora Okonkwo' (n 4).

on restructuring the federation is the question of a unified national identity captured in the desirability of a 'Federal Republic of Nigeria'. A pertinent issue that unveils this question is the agitation by separatist groups, prominent among which is the call for Biafra. While the issue of Biafra dates back to the 1960s and 1970s,<sup>13</sup> its resurgence post-1999 has legitimised questions on the desirability of Nigeria as a nation-state for advancing governance. For many pro-Biafran agitators the discussion on restructuring the federation should proceed from the discussion on whether it is necessary to speak of Nigeria given that it is both an amalgamation of difference and an artificial creation of colonial rule. For these groups questioning the utility of Nigeria as a nation state, retaining a common identity without interrogating the relevance of the colonial union seems futile. One of the arguments of many of the separatist groups is that Nigeria should rather opt for a confederation or secede. Regardless of political persuasion on these arguments, its core undrapes a deeper issue for which restructuring is imperative. That is the fact that internal self-determination of groups within the polity need to be afforded adequate ventilation. And in providing adequate ventilation, it is imperative that adequate measures be set in place to foster a sense of belonging by various ethnic groups.

One of the important institutions that may serve to sustain this ventilation is the Federal Character Commission established 'with [the] responsibility to promote, monitor and enforce compliance with the principles of proportional sharing of all bureaucratic, economic, media and political posts at all levels of government'.<sup>14</sup> However, it is imperative that the discussion on national identity should also be afforded significant

- 13 See generally F Forsyth *The Biafra story: The making of an African legend* (1969); S Diamond 'Who killed Biafra?' (2007) 31 *Dialectical Anthropology* 339; CR Nixon 'Self-determination: The Nigeria/Biafra case' (2011) 24 *World Politics* 473; G Onuoha 'Contesting the space: The "new Biafra" and ethnoterritorial separatism in South-Eastern Nigeria' (2011) 17 *Nationalism and Ethnic Politics* 402; C Achebe *There was a country: A personal history of Biafra* (2012); M Gould *The struggle for modern Nigeria: The Biafran war 1967-1970* (2012); P Baxter *Biafra: The Nigerian Civil War 1967-1970* (2014); Amnesty International 'Nigeria: "Bullets were raining everywhere": Deadly repression of pro-Biafra activists' (2016); C Obi "'War is war": Recreating the dreams and nightmares of the Nigeria-Biafra war through the eyes of Ken Saro-Wiwa's Sozaboy' in T Falola & O Ezekwem (eds) *Writing the Nigeria-Biafra war* (2016) 230; C Offodile *The politics of Biafra and future of Nigeria* (2016); RJ Julius-Adeoye 'The Nigeria-Biafra war, popular culture and agitation for sovereignty of a Biafran nation' *African Studies Centre Working Paper* 138/2017; B Simpson 'The Biafran secession and the limits of self-determination' in AD Moses & L Heerten (eds) *Postcolonial conflict and the question of genocide* (2017) 113; L Heerten *The Biafran war and postcolonial humanitarianism: Spectacles of suffering* (2017).
- 14 Federal Character Commission Establishment Act (1995). For more discussion on the federal character principle, see CO Okorie & E Greg 'Federal character principles, nation building and national integration in Nigeria: Issues and options' (2013) 4 *Mediterranean Journal of Social Sciences* 33; B Kendhammer 'Citizenship, federalism and powersharing: Nigeria's federal character and the challenges of institutional design' (2014) 13 *Ethnopolitics: Formerly Global Review of Ethnopolitics* 396; K Asaju & T Egberi 'Federal character and national integration in Nigeria: The need for discretion and interface' (2015) 3 *Review of History and Political Science* 126; CE Okeke 'Implementation and enforcement of the federal character principle in Nigeria' (2019) 10 *Nnamdi Azikiwe University Journal of International Law and Jurisprudence* 174.

prominence through a national dialogue that seeks to build genuine contrivance. While it is pertinent to take a cue from the 2014 National Conference,<sup>15</sup> a new national dialogue must be more inclusive, also of the grievances of separatist agitations.

Having raised this pertinent issue, it is relevant to turn to the core issues embedded in restructuring the Nigerian federation. Central to the discourse on Nigeria's federalism is the structure of the political governance. One of the contentions is the utility of the presidential system and whether the Westminster model, inherited at independence, would better serve the Nigerian federation. The main argument in support of the parliamentary system is that it is less expensive to run, enhances citizen's participation, and lessens the grave electoral corruption that often trails presidential and gubernatorial electoral seasons.<sup>16</sup> However, there are historical memories against this system dating back to the 1960s. The parliamentary system was utilised in Nigeria's First Republic.<sup>17</sup> The First Republic ended in the first military *coup*. Electoral corruption was rife. Citizens' participation was foreshadowed by personality cult. Moreover, the parliamentary structure of the First Republic also entrenched ethnic dominance. The north's ethnic domination in the structure at the time<sup>18</sup> meant that they could maintain grips on the election of a Prime Minister. It was, among others, in response to this preponderance that a presidential system of governance emerged in the Second Republic<sup>19</sup> as a way of accommodating and also bridging ethnic divides.

- 15 F Aborisade 'National conference: The character, prospects and limits' *Vanguard* 6 October 2013; 'Analysis: What did Nigeria's National Conference achieve?' *BBC News (Africa)* 26 August 2014; RA Aderinoye 'The 2014 National Conference: Looking back, looking forward' *The Guardian* 2 April 2015; L Olu-Adeyemi 'Federalism and the accommodation of diversity in Nigeria: The 2014 national conference in perspective' (2018) 7 *International Journal of Humanities and Social Science Invention* 62.
- 16 F Okurounmu *Leadership failure and Nigeria's fading hopes: Being excerpts from patriotic punches: A weekly column in the Nigerian Tribune from 2004-2009* (2010) 144; 'Nigeria: Fresh crave for parliamentary system' *This Day* 10 September 2012; E Uzodinma 'Why Nigeria needs parliamentary system – Ekweremadu' *Daily Post* 28 December 2017; A Abdulah 'Nigeria needs return to 1963 parliamentary constitution – Clarke, SAN' *Vanguard* 15 February 2018; J Onyekwere 'Nigeria should return to parliamentary system of government' *The Guardian (Nigeria)* 18 September 2018; N Ayitogo '71 Nigerian lawmakers demand return to parliamentary system of govt' *Premium Times* 13 December 2018; O Adetayo & L Baiyewu 'Afenifere, Ohanaeze back 71 Reps' Bill seeking parliamentary govt' *Punch* 14 December 2018; S Oyeyipo '22 house members move to return Nigeria to parliamentary system of govt' *This Day* 14 December 2018; L Sote 'A call for parliamentary system' *Punch* 19 December 2018; 'Mixed reactions trail lawmakers' demand for parliamentary system' *Pulse Nigeria* 31 December 2018; 'Why we're proposing parliamentary system – Rep' *Premium Times* 1 January 2019.
- 17 See BO Nwaubeze *A constitutional history of Nigeria* (1982) 95-96; L Diamond *Class, ethnicity and democracy in Nigeria: The failure of the First Republic* (1988) 2; P Badru *Imperialism and ethnic politics in Nigeria* 83; AB Bah *Breakdown and reconstitution: Democracy, the nation state, and ethnicity in Nigeria* (2005) 101.
- 18 RL Sklar 'Contradictions in the Nigerian political system' (1965) 3 *The Journal of Modern African Studies* 201 209.
- 19 RK Edozie 'Centralisation trends in Nigeria's PDP regime: Addressing pluralism in contemporary African democracies' in SC Saha (ed) *The politics of ethnicity and national identity* (2007) 69, 76; I Hagher *Diverse but not broken: National wake up calls for Nigeria* (2015) 111.

One might argue that the unease that has trailed its application in the Fourth Republic is not the utility of the ideology but a function of its practice. For instance, if cost is a premise for its condemnation, it is imperative to seek an efficient form of governance. What this will require in more practical terms is to cut down on legislative salaries and allowances, tackle corruption and reorganise the system of administration for a more sustainable approach which is contiguous to the issue of cost. An ancillary issue that will also need to be addressed is whether the 36-state arrangement should be retained or whether it should give way for the region-based arrangement based on geopolitical zones. The high cost of maintaining the 36 federal units in the face of gaping developmental challenges weakens any support for retention. Half of the 36 states are struggling with viability.

According to the 2017 Annual States Viability Index, '17 [out of 36] states are insolvent as their Internally Generated Revenues (IGR) in 2017 were far below 10 per cent of their receipts from the Federation Account Allocations in the same year'.<sup>20</sup> The uneven nature of distribution of the Federal Account Allocations in view of the assessed contribution of states have also fanned the embers for greater resource control by states that generate the most revenue, notably from oil-rich states. But leaning towards the argument that the 36 states arrangement should be dissolved requires that the reversion to regional government based on geopolitical zones, if utilised as an alternative, must foster equitable ethnic representation particularly, in regions where marginalisation of certain ethnic minorities is rife. Moreover, there will also be a need for equitable geopolitical rotation of presidential power among the six zones. In rotation, the emphasis should be on promoting ethnic plurality so as to 'give everyone a sense of belonging and guarantee the stability of the nation'.<sup>21</sup>

#### 4 Restructuring resource control and revenue allocation

Beginning from the 1990s, the most visible expression of the debate on resource control is the issue of the Niger Delta. While this issue has received extensive scholarly discussion, which is not necessary to rehash,<sup>22</sup>

20 'ASVI 2017: 36 states generate N931bn IGR against N3.3 trn from federation account' Economic Confidential 29 April 2018; 'Half of Nigeria's 36 states insolvent – Report' *Premium Times* 29 April 2018.

21 S Oguntola 'Why Nigeria needs rotational presidency, by Asaju' *The Nation* 18 June 2017.

22 See generally I Okonta & O Douglas *Where vultures feast: Shell, human rights, and oil in the Niger Delta* (2001); M Watts 'Resource curse? Governmentality, oil and power in the Niger Delta, Nigeria' (2004) 9 *Geopolitics* 50; JI Dibua 'Citizenship and resource control in Nigeria: The case of minority communities in the Niger Delta' (2005) 40 *Africa Spectrum* 5; PS Orogun 'Resource control, revenue allocation and petroleum politics in Nigeria: The Niger Delta question' (2010) 75 *GeoJournal* 459; CI Obi 'Oil extraction, dispossession, resistance, and conflict in Nigeria's oil-rich Niger Delta' (2010) 30 *Canadian Journal of Development Studies* 219; V Ojatorotu & NL Morake 'Nigerian leaders in the 1990s and the politics of oil in the Niger Delta' in V Ojatorotu

it is imperative to state the essential facts of the debates on resource control and revenue allocation from the Niger Delta perspective.

First is the contention that resource ownership should be vested in the region and not the federal government.<sup>23</sup> In its moderate form, this contention has precipitated calls for devolution of ownership. In its extreme form, however, it has led to calls for secession.<sup>24</sup> Article 44(3) of the 1999 Nigerian Constitution provides that ‘the entire property in and control of all minerals, mineral oils and natural gas in under or upon any land in Nigeria’ shall be vested in the federal government.<sup>25</sup> By implication, natural resources belong to the federal government and ownership of these resources are managed by the federation in principle. Paragraph 39 of the exclusive legislative list in the Second Schedule of the 1999 Nigerian Constitution strengthens this provision in that it vests authority on ‘mines and minerals, including oil fields, oil mining, geological surveys and natural gas’ within the exclusive legislative competence of the federal government and not the state governments. During the 2014 National Conference, a revision to this provision was proposed to the effect that ‘the government of states where the mining activities take place shall be involved in matters relating thereto [that is, to the issue of mines and minerals, including oil fields, oil mining, geological surveys and natural gas]’.<sup>26</sup> The importance of this recommended revision resonates from its ability to quell issues of marginalisation weaved in the debate on resource control around which calls for restructuring has gained notable traction.

The second aspect of the debate is on the 13 per cent derivation policy. In order to grant some semblance of preference to states from

(ed) *Anatomy of the Niger Delta crisis: Causes, consequences and opportunities for peace* (2010) 121, 126; D Arowolo ‘Nigeria’s federalism and the agitation for resource control in the Niger-Delta region’ (2011) 2(7) *OIDA International Journal of Sustainable Development* 83; R Ako ‘The struggle for resource control and violence in the Niger Delta’ in C Obi & SA Rustad (eds) *Oil and insurgency in the Niger Delta: Managing the complex politics of petro-violence* (2011); C Obi ‘Because of oil? Understanding the globalisation of the Niger Delta and its consequences’ in O Ukaga et al (eds) *Natural resources, conflict, and sustainable development: Lessons from the Niger Delta* (2012) 22; O Oluduro *Oil exploitation and human rights violations in Nigeria’s oil producing communities* (2014).

- 23 C Ibekwe & AIE Ewoh ‘Resource control and the rise of militia in the Nigerian Delta region’ (2012) 5 *African Social Science Review* 1 9; H Umoru et al ‘Resource control: NDSMD demands 100%, threatens secession’ *Punch* 18 June 2014; JO Adeyeri ‘Nigerian federalism and the resource control conflict in the Niger Delta’ (2014) 16 *Journal of Sustainable Development in Africa* 24; ‘Niger Delta wants 100% resource control – Briggs’ *Punch* 23 July 2017; AK Usman *Nigerian oil and gas industry laws: Policies, and institutions* (2017) 420; A Ajodo-Adebanjoko ‘Towards ending conflict and insecurity in the Niger Delta region: A collective non-violent approach’ *African Centre for the Constructive Resolution of Disputes* 12 September 2017.
- 24 See V Ojakorotu ‘The dynamics of oil and social movements in the Niger Delta in Nigeria’ (2006) 3 *Portal Journal of Multidisciplinary International Studies* 1; R Ako ‘Resource control in the Niger Delta: Conceptual issues and legal realities’, <https://www.e-ir.info/2012/05/25/resource-control-in-the-niger-delta-conceptual-issues-and-legal-realities/> (accessed 25 April 2019).
- 25 1999 Nigerian Constitution (n 2) art 44(3).
- 26 ‘2014 National Conference Report’ Final Draft of Conference Report (August 2014) 585, <https://www.premiumtimesng.com/national-conference/wp-content/uploads/National-Conference-2014-Report-August-2014-Table-of-Contents-Chapters-1-7.pdf> (accessed 25 April 2019).

which natural resources are exploited, the proviso of article 162(2) of the Nigerian Constitution provides that at least 13 per cent of the revenue accruing from states from which resources are extracted shall be allotted to these states 'in any approved [revenue sharing] formula'.<sup>27</sup> Although this principle seeks to give preference to oil-producing states, it has been criticised as inequitable given that oil-rich states bear the burden of natural resource extraction from oil spills to gas flaring, and current allocations are not sufficient to advance developmental initiatives for these states and communities in these region. A more pragmatic approach will be to revert, for instance, to the recommendation of the Hick Phillipson recommendation of 1946 which, based on the derivation policy, introduced the position that 50 per cent of revenues on mining should be given to the origin from which the resource is extracted.<sup>28</sup> However, implementing this position will also require diversification of natural resource extraction. However, whether this will occur will largely depend on practice, the practice being that every state or region should look inward to develop its own revenue base.

## 5 Conclusion

In engaging the question of restructuring, this chapter has explored two pertinent issues: the nature of the federation and resource control.

On the issue of federation, the chapter argues that there is a need to ventilate the grievance of separatist agitation through measures that proactively address these grievances. Moreover, the chapter argues that while the debate on the form of political structure – parliamentary or presidential – is significant, the core issue is really the practical dimension of the ideology as opposed to the ideology itself. The chapter argues that it is imperative to examine how a more sustainable form of the current governance structure can emerge taking into account issues of cost and efficiency. It is argued here that there is need for an equitable ethnic representation, notably in regions where marginalisation of ethnic minorities is prevalent or very likely to occur.

On the issue of resource control and revenue allocation, it is important to involve states where the resources are extracted drawing on the recommendation made during the 2014 National Conference. Moreover, it is imperative to revise the derivation policy to assuage the grievance around the 13 per cent derivation principle. A more equitable proposition

27 1999 Nigerian Constitution (n 2) art 162(2).

28 The Phillipson Commission classified revenues into declared and non-declared revenues. Declared revenues were exclusive to the regions and encompass 'direct taxes [personal income tax], licensing fees, mining rents and rents from government properties'. See Babalola (n 3) 94; NN Elekwa et al 'Fiscal restructuring in Nigeria: Ahistorical review' (2011) 9 *Journal of Research in National Development* 413 414; CU Uche & OC Uche 'Oil and the politics of revenue allocation in Nigeria' *African Studies Centre Working Paper* 54/2004; AO Dokpesi 'Oil curse and the Nigerian development dilemma' in AO Olutayo et al (eds) *Contemporary development issues in Nigeria* (2015) 151 155.

will be to revert to the 50 per cent derivation policy as this will enable a more equitable perception from states where these resources are extracted and also propel other states to begin to look inward for the furtherance of mining natural resources. This is important also in light of the fact that all states of the federation have natural resources that can be leveraged upon. However, it is imperative to establish that real change must proceed from political commitment to the process. The trajectory of the debate on the Nigeria project post-2019 will largely be determined by how the issues of proper representation in the current federating structure and resource control are resolved.