

# The Theory and Practice of Federalism: A Critical Analysis of History and Global Trend

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**Abstract**— This research work sort to evaluate divergent theories and the practice of federalism especially with regards to the impact global trends have had on emerging democracies such as Nigeria. Efforts were equally geared towards establishing a relationship between the Principles, Nature and also the Essence of federalism from the ancient up until the modern era. This paper argues that there is no finished federal system or model in the world as every federal system in the world is in a process of becoming better. This paper therefore recommends that since Federalism is not universal but context/country dependent, efforts must be made by emerging democracies such as Nigeria in ensuring that institutional frameworks are built that will facilitate the rapid socio-economic development of their Federations.

**Keywords**— Federalism, Global Trend, Decentralization, Constituent Units.

## I. INTRODUCTION

Before we delve into this exercise, it is worthy to note that federalism is context dependent. This is because it is highly varied in practice than in theory. Federations can be relatively centralized or decentralized, congressional or parliamentary, dualist or integrated and so on. Viewed this way, federalism can seem a banal idea – not more than a tool kit of machinery of government for managing regionally complex centrifugal and centripetal forces in political systems. As a principle of governance, it can thus seem to be not very different from decentralization. This paper contends that there is no finished federal system or model on the face of earth as every federal system in the world is in a process of becoming better. Thus, the ability of any federal system to manage the centrifugal and centripetal forces that are inherent in any given multi-national State is what qualifies that State a federal State.

Having established that, we are going to critically analyze the theory and practice of federalism as well as the historical antecedents of the concept through the following sub-headings;

### ❖ Theory of Federalism

- (1) Legal institutional view (championed by K.C. Wheare)
- (2) Process view (championed by W. Livingston)
- (3) Power view (championed by A. Etzioni)

### ❖ Principles of Federalism

### ❖ Nature of Federalism

### ❖ Essence of Federalism

### ❖ Practice of Federalism as a Global Trend (America, Nigeria, Switzerland, and India/Uganda federalism as basis of critical analysis)

### ❖ Historical Antecedents of Federalism (Greek city States and the Leagues)

### ❖ Summary and Conclusion

## II. THEORY OF FEDERALISM

Federalism is more of a political system than an ideological system. The idea originated with the concept of inter-governmental relations and dates back to the legal relationships between the Leagues and the City-states. For the purpose of this paper and analytical convenience, the conceptualizations and operational interpretations that

form the theory of federalism here may be classified into three:

- ❖ Legal-institutional,
- ❖ Process and
- ❖ Power views.

### (1) Legal Instructional View of Federalism

The legal institutional view is also regarded as the classical definition of federalism that is very much associated with K.C. Wheare, an Anglo-Saxon scholar and writer, who is regarded as the dean and doyen of classical federalism having elevated the status of federalism to “theory”. In other words, discussion on contemporary federalism usually starts with K.C. Wheare’s postulations on the concept. Most other theorist that have written on the issue usually find themselves either agreeing or disagreeing with him. Thus making him a point of departure on all discussions about the theory of federalism. Writing on federalism, Wheare (1963) in Obiajulu and Obi (2010:222) posited thus; “by the federal principle mean the method of dividing power so that general and regional governments are each, within a sphere, coordinate and independent”.

Wheare’s definition of federalism was predicated on the American federal structure, which he regarded as model, archetype or paradigm of federalism per excellence. It also provided some formal institutional requisities and conditions, which according to him, America possesses as put together by Kalagbor (2011:230) to include:

- a) The existence of an independent judiciary and supreme court system;
- b) Multi-party system, preferably a two party system;
- c) Rigid and written constitution;
- d) Division of powers and functions;
- e) Financial autonomy;
- f) Independent electoral systems for both levels of government and
- g) Bi-cameral legislature.

This postulation of Wheare’s classic formulation of federalism has been variously criticized for being too rigid, legalistic and inflexible. In fact, Livingston has also pointed out that Wheare’s neglect of sociological variable in his definition of federalism is faulty, because sociological factors are essential in the understanding of the dynamics of

federalism. Wheare's view of American as a model of federalism gives the impression that American federalism is without problems (Kalagbor, 2001). Similarly, another major weakness of Wheare's classification is his confusion in seeing his institutional criteria as defining characteristics of federalism which are not, because not all federal system of government possess these criteria.

### (2) *Process View of Federalism*

Livingston (1952) in Obiajulu and Obi (2010) notes that the essence of federalism lies not in the institutional or constitutional structure but in society itself but rather federalism is a device by which the federal qualities of the society are articulated and protected. This view is at times referred to as the sociological notion of federalism. Sees federalism as a process or system of bringing dynamic equilibrium between the centrifugal (disintegrative) and centripetal (integrative) forces in society. Similarly leading scholar in the process federalizing. A process where there is a continuous push and pull between forces of unity and disunity. Therefore any pattern of constitutional arrangement of a federal state according to Friedrichs merely a short-run view of a continually evolving process (Kalagbo, 200, and Obiajulu & Obi, 2010) trying not to be legal or restrictive in his concept of federalism, Friedrich opined that "federalism is a process rather than a design... any particular design competencies or jurisdictions is merely a phase. As short rune view a continually evolving reality". He further asserted that "if thus understood as the process of federalizing it will be come apparent that federalism may be operating in both the directing of integration and differentiation while not disagreeing with Wheare, Livingston believes that federalism is simply a political arrangement through which the federal attributes of a society are expressed. It should be noted however that despite the differences in conceptualization of the federal concept, it is still very clear that federalism represents a system of government that emphasizes unity in diversity, division of powers between levels of government and limited autonomy to the constituent units.

### (3) *Power View*

According to Kalagbor (2011) the power view formulation of federalism is associated with Amitai Etzioni because he takes a strictly political perspective in his understanding of the federal principle. His basic hypothesis is that the most critical element in politics and governance is power. That power is necessary not only in terms of resource sharing, it is equally important to understand federalism as a principle of dealing with group relationship and interaction, in the context of power sharing federalism according to this view is, therefore an attempt to cope with the problem of power in the process of unification of political communities. When groups as states are aggregated into a collectivity, the most important concern to them is how much power they have which is a major determinant of the amount of resources they get in relation with other. This is to ensure that political power is not jacked by a major group or groups in society. Some prominent federal states a part form the United States of American are former

USSR, India, Nigeria, Belgium, Mexico, Switzerland, Pakistan, Canada and Australia (Kalagbor < 2001).

## III. PRINCIPLES OF FEDERALISM

Nwabueze argues that:

Federalism is an arrangement whereby powers of government within a country are shared between a national, country wide government and a number of regionalized (i.e. territorially localized) governments in such away that each exists as a government separately and independently from the other operating directly on persons and properly of its own and its own apparatus for the conduct of its affairs, and with an authority in some matters exclusive of al the others (Nwabueze, 2008:27)

Upon the definition above, Nwabueze identified principles of federalism as follows:

- (a) *Governments rather than geographical entities or peoples as the basis of the federal arrangement:* This principle stresses that federalism concern itself with power sharing between two tiers of government, federal and states, not the relationship between the central government and each rational governments and how geographical, political entities and ethnic nationalities share governmental power.
- (b) *Separateness and independence of each government:* The central and regional governments are autonomous in their rights and domains. This autonomy presupposes that they are equally separate in existence and independent from the control of each other. Autonomy in this regard, also means legal (e.g. the existence of a legislative assembly, the judiciary, state bureaucracy, executive arm of government, etc) and physical existence".
- (c) *Equality between the regional governments:* Equality means that the regional governments should have equal powers; no regional government should have more or less power than the other or be accorded a special position or attention in the national government. This is because the possession of preponderance of power by any of the regional government may create some sense of superiority and arrogance, thereby creating a situation of disequilibrium, rather than equilibrium, which the federal system seeks to achieve.
- (d) *Number of constituent units:* Federalism thrives and flourishes upon a multiplicity of interest groups and constituent units in order to ensure the desired equilibrium. A federal state comprising two or three states is likely to generate constant conflict, rivalry and struggle for supremacy. In the case of a federal structure involving three states, where two states gang up again stone state or event he central government, the union is likely to be futile. Thus, multiplicity of states guarantees understanding, cooperation; independence, tolerance and stability of the union. For example, the federal union of the United States of America comprising 5 states.
- (e) *Techniques for division of powers:* The techniques for division of powers between the central government and the regional governments should be predicted on exclusive legislative list which defines the powers of the central government and the Residual Legislative list which defines the powers of the state regional governments. There may

yet be a third instrument the concurrent list, “which defines areas where both the central and regional governments may legislate.

- (f) *Underlying objectives of the federal arrangement:* the federal arrangement is principally provoked in a society by factors such as fundamental differences in race, religion language, culture and economics. The essence of the union, therefore, is to unify these differences or simply put, to ensure peace, stability, unity in diversity or diversity in unity. Thus, the two principal objectives of federalism are to ensure national unity and regional autonomy.
- (g) *Constitutional forms:* The constitutional form which modern federal governments take presupposes that where as there is a federal constitution; the state should also have their own constitutions, in order to assert their original authority. In any case, the states could also surrender their original “constitution” and also accept anew one. America constitutes an example of the former, while Nigeria approximates the latter case (Nwabueze, 2008).

#### IV. NATURE OF FEDERALISM IN PRACTICE

Awa (1976) has argued that many founding fathers of federations and some writers on federalism often use the terms federal, confederal and federation, confederation and confederacy interchangeably. To us, Federalism is all about context: an approach to governance that may be applicable in certain countries given their physical geography, population size and internal make-up in terms of language, religion, ethnicity and other factors. The advocates of Federalism will not argue that it be applied everywhere or in every country.

Those countries that call themselves Federal states or are usually referred or considered federal are of course, marked by enormous variations in their institutional arrangement. At one extreme, Federal country such as Venezuela, Malaysia and Australia are highly centralized. By contrast, small Switzerland and big Canada are very decentralized. But even so, the Federal Governments in both cases have important powers, weigh heavily in the fiscal mass and economic management of the countries, and lead on many key issues of public policy. A number of countries that are usually called Federal - Canada, India, Nigeria, Spain, the United states etc. have special Federal powers to intervene in what are normally the jurisdiction of the constituent units though they may not be used. Moreover, there are some countries that are usually considered to be unitary that have achieved a high degree of decentralization to regionally elected governments.

This variety of Federal systems and the apparent overlap with some decentralized unitary systems raises the issue of whether Federalism has enough of a substantive core to merit any standing as a distinct approach to structuring political systems. Well it does. The essence of Federalism is a regime in which there are at least two orders of government, each with distinct relationship to its electorate and each having some genuine political and constitutional independence from the other. Having said that, it is clear that language is slippery, but the application of the term Federal to a particular case must always include some elements of both constitutional and political judgment. It must also avoid a rigid, ideal definition

of Federalism under which perhaps no country would fully qualify to be called a Federal state.

#### V. PRACTICE OF FEDERALISM AS A GLOBAL TREND

Having identified with the theory, nature, principles and reasons for federalism, let us look into the practice of the concept across borders. The countries to look will include; America, Nigeria, Switzerland, India, and Uganda federalism. These countries will form the basis of analysis as we reconcile abstract connotation of federalism and reality which finds relevance in the practice across the world.

##### (1) *America Journey to Federalism: A Brief Analysis of History*

America was colonized by Britain. Note that there is always a difference when white colonizes white. In 1776, America got her independence from Britain. There were 13 original colonies that were freed from British colonialism that came together and formed a confederation for the purpose of a common goal while retaining their autonomy to their individual colonies (This was the beginning of serious problems or issues. Between 1776 –1787, United State of America was a confederation. However, some of the colonies created self-sovereignty known as tread barriers or flanked. In fact, three countries came up to create a treaty. They include Canada, Mexico and America. Out of these countries, one was poor Mexico to be precise. These three states came up with trade policy among themselves which was not supposed to be so judging from the policy of confederation (Janda, Berry & Goldman, 2000). Between 1861 – 1865, there was a civil war between the Catholics and protestants which could be referred to as centrifugal forces trying to pull the centre apart. However, even though these were supposed to disintegrate the confederal system, it strengthened it and that eventually led to federalism (Janda, Berry & Goldman, 2000).

Note that the idea of confederation in USA was to trade together. But the three 3 states mentioned above came up with their own trade policy that would enable them trade among themselves. This was contrary to the ideas of confederation as presented. Some of these colonies even created their own currency which was against confederal policy as well. These were issues that led to the convention in 1787. In the meeting, James Morrison argued that there should or that USA should adopt a federal system and federal constitution. The anti federalists on the other hand argued on the contrary. However, at the end of the convention, it was agreed that USA would become a federal state (Janda, Berry & Goldman, 2000). In 1787, America became a federal State. Even as a federal state with federal constitution, there were still issues on whether the national government was going to have an all powerful amount of power above the states. They had a two-tier system of government. In USA, the national government and state government in principle are co-ordinate, but not in the share of power (Janda, Berry & Goldman, 2000).

The bill of right was enacted into the constitution to clear the fear of all-powerful national becoming an impediment on the sovereignty of the states. The presidency over the years has assumed much power viz-a-viz the state. We should note that after the civil war the national government came up with

Reconciliation, Rehabilitation, and Reconstruction (3 R) policy and that gave it more impetus over the state (Janda, Berry & Goldman, 2000). In America, the national government is the gate keeper of the state just like Nigeria where the federal government is the keeper of the states. Regearn argued that it was the state that created the national while bush countered the argument. However, the America presidency is most powerful.

#### *Features of Federalism in America*

- a) It has a written constitution that must be operated within the context of democracy.
- b) The federal system is named in the constitution of the federation.
- c) The constitution has a bi-cameral legislature at the national level (House of representative and house of senate).
  - ❖ It is constituted on representation of the districts.
  - ❖ Every district must provide 2 senators
  - ❖ Representation is based on population in the house of representative.
- d) It provides for minority representation.
- e) Judicial review: this describes the power the judiciary has to declare null and void the decision made by the state or national government that are deemed unconstitutional by the judiciary. Every level of the judiciary can declare null and void any actions, decisions made by the national or state government that is deemed unconstitutional. This however helps in checks and balances.
- f) The constitution in USA also provides through the constitution clear areas of responsibility of each of the levels of government. E.g the power to impose taxes which the national and state government share.

#### *(2) Nigeria Experience of Federalism: Preamble on Evolution*

Two analyses of the evolution of Nigeria federalism easily come to mind.

1. The first argument is that the British deliberately imposed the federal system on Nigeria in order to maintain a colonial control of the country after lowering of the union jack. This is the nationalist view about the evolution of federalism in Nigeria as the colonial master left structural imperfections behind as they went.
2. The other interpretation of the evolution of the federal system in Nigeria emphasizes the fact that historical and geographical factors determined the political evolution of Nigeria. This school argues that Nigeria being a large and culturally varied country could not have been governed for long from one centre.

This latter interpretation is much more objective than the former, but it must be pointed out that whilst the factors of history and geography more than anything else determined the constitutional evolution of Nigeria, these factors did not determine the shape and form of the federation that the British helped to create in Nigeria.

#### *Evolution of Nigeria Federalism*

The evolution of Nigeria federalism according to Ola and Tonwe (2009) can be traced to the British penetration into Nigeria which began from the annexation of Lagos in 1861 on the ostensible grounds of stopping the slave(s) trade and ended with the seizure of what is today known to be Nigeria by 1900

following the defeat of one Nigeria potentate after another. Note that before 1900, what is known to be Nigeria today was formerly a conglomeration of many scattered ethnic groups each occupying a geographical area with different historical backgrounds, cultures, religions etc. This was the case of Nigeria until 1898 when this ethnic groups were lumped together and christened Nigeria by Flora Shaw later Flora Lugard. The British colonial administration in Nigeria started or was established in 1900 after the British crown revoked the charter of the Royal Niger Company (RNC). Consequently upon this, three separate territories emerged. These were

1. The colony of Lagos
2. The protectorate of southern Nigeria
3. The protectorate of northern Nigeria

In 1906, the colony of Lagos and southern protectorate were amalgamated by Walter representing British government. The resultant territory then took the title. In 1914, the colony and protectorate of southern Nigeria and the northern Nigeria protectorate amalgamated by Lugard. The resultant administration in 1919 was styled the colony and protectorate of Nigeria. However, so much significance has been attached to the 1914 amalgamation. According to Nnamdi in Ola and Tonwe (2009, 205) not only that 1914 marked a turning point in the evolution of the Nigeria state, but also that Nigeria as a political entity was created in that year. To this effect, Allen in Ola and Tonwe (2009) argues that Nigeria was born in 1914.

#### *Problems Associated with Nigeria's Journey to Federalism as Practiced*

Nigeria as a federal state had its fundamental problems in its journey to federalism. The name "Nigeria" according to Ola and Tonwe (2009) is even a problem. The problems in Nigeria journey to federalism are inherent in the amalgamation exercises, later in the constitutional development. For example the amalgamation exercise of 1914 was not designed to unite Nigeria. This is because the colonial policies were not altruistically motivated. Even Lugard confirmed that European brains, capital and energy were not to develop Africa (which Nigeria is one). The amalgamation was designed for the administrative convenience of the British colonial officials and to save costs. Three illiterate chiefs were made a mere advisory body. Administratively, the amalgamation did not fuse both protectorates. For example until January 1951, there were still three secretariats; the police and prisons were only amplified in 1930 and 1938 respectively (Ola & Tonwe, 2009).

1922 Clifford constitution introduced elective principle which provided for six Nigerians nominated but not elected. It was only the colonial masters or officials that were elected. The question here is; is this development democratic? The answer is no. In 1946, Richards constitution was introduced with regions created. The idea was to make Nigeria a federal state as it created regional legislatures not empowered to make laws. This laid the foundation of federalism. In 1951, Macpherson constitution was introduced. Nothing much actually happened. It only empowered the regional legislatures to make laws. In 1954, Lyttleton constitution was introduced. It was under this constitution that Nigeria became a federal state constitutionally. In 1960, Nigeria had her independence. The 1954 constitution was the "kernel" of all further constitutional changes which culminated in the establishment

of the federal republic of Nigeria in October 1, 1963. It was in 1963 that Nigeria became a federal republic. That was also when the British crown was removed from Nigeria. In 1964, the mid-west was created. Note that if the balance of power favours the central government, the constitution would be classified as quasi-federal (machinery towards unitary) but if the regional governments control the most important powers, the constitution is classified as confederal. However, the constitutional structure itself is not enough to explain the prospects for successful federations. Consider the pol-parties and attitude of people. Both the independence constitution of 1960 and the republic constitution of 1963 as modeled on the 1954 constitution gave exclusive powers in the areas of fiscal and monetary policy, air and rail transportation, custom, immigration, foreign affairs and defense to the federal government (Ola & Tonwe, 2009).

Most important was the state of emergency which the federal government could employ to exercise control over-region in case of war, public emergency or subversion. The regions did not have power to initiate amendments; rather their role was limited to considering the amendment proposed at the federal level. From the above, it is clear that the federation was one in which the centre was more powerful than the component units. The problem was compounded by the fact that each of these regions with the exception of the Midwest which was created in 1963/4 was dominated by major ethnic groups. This made the game of politics played with scant regard for rules. Another factor that worked against the success of the federation is the attitude of the Nigerians. This could be called ethnic politics which the politicians were engaged in. This situation explains the problem of operating a democratic governmental system in a setting where democratic values are not yet firmly established.

In a nutshell between 1963 -1969 the Nigeria federal system was in a mess. It was a period when politician embarked on political game of who gets what, when and how ethnically to the detriment of the federation. It was this unwholesome situation that gave rise to the crises which Nigeria experienced between 1966 and 1970 (the period of civil war called Biafran war). In January 1966 the military took over power and the head of the military Ironsi suspended the federal constitution and embarked on plan to turn Nigeria into a unitary state (Ola & Tonwe, 2009). The above development resulted in the killing of many soldiers and equally affected regional governments, The North argued that the coup was an Igbo coup even though it was not.

In July 1966, there was a counter coup which brought Gowon into power. His administration brought the country back to military federation. Under this administration twelve (12) states were created. Hence we had a federal state with twelve states under the military. Under this administration, twelve 12 states were create. Hence, we had a federal State with twelve states under the military. Under this administration too, the eastern region attempted to secede from the federation. These centripetal forces affected the federation, even resulted into a civil war between the federal government and a selected region (Biafra war) which lasted between 1967 -1969 when peace was restored. The 1979 constitution recognized Nigeria as a federal state with three (3)

orders of government. This was when local government became a third tier of government in Nigeria. Note that the local government becoming a tier of government contrary to K.C Wheare's definition or conceptualization of a federal state.

By 1985, the military took over power again from Shargari and we began to have another military federalism for another couple of years before power was handed over to civilians by Shonekon after the demise of Abacha. All these put together, there is a clear indication that Nigeria did not take the root that America took to federalism though there are areas of similarities in terms of principles. Afigbo in kunle, Adgun, Rotimi, and George (2004) divided the evolution of Nigeria federalism into three epochs:

1. The period of "informal federation" (1900-1946)
2. The period of formal federation" (1946-1966)
3. The second phase of "formal federation" (1967-date).

Sagay (2003) argues that the federation of Nigeria began as a Unitarian colonial state but disaggregated into three and later four regions. In 1967 the regions were abrogated and twelve states created in their place. The number of states increased to nineteen in 1979 and to twenty-one in 1987 and today thirty-one states. In additions, in 1990, there were 449 LGAs and today we have about 774 LGAS. He argued that Nigeria has recorded "civilian federalism" and "military federalism" as each has given Nigeria federalism different shapes and structures. These in turn, has impacted on the practice of federalism in the country.

#### *Features of Nigeria Federalism*

1. Written constitution that define the spheres of authority of the levels of government. The const is supplement
2. It has three levels of government federal, state and local government
3. The federal government precedes over matters in the exclusive list, share responsibility with the state in the concurrent and prevails over the states responsibility in the local government
4. It has an umpire a federal growth that resolves conflict between the levels of government
5. It has a bicameral legislative at the a natural levels membership on equal representation
6. Federal system is named in the constitution
7. Representation is based on number in the house of national assembly
8. It is in principle a democratic state
9. It isa presidential federal system
10. It does not grant self rule to minority
11. The state and federal impose taxes
12. The state has limited powers

#### *(3) Swiz Federation*

Switzerland has about 7,000,000 people. It became a federation in 1848. However, before in became a federal State, it was a confederation state of 26 cantons. By implication it used to be called Swiz confederation, but now it is called Swiz federation (Morgan, 2013). Before we forge ahead, it will be sage for us to always compare even as we study. Switzerland was a multinational state (Australia, Germany, and France) which its purpose of coming together to form confederation

was not for nation building – like Nigeria. If we are to compare America and Switzerland, we will observe that the U.S.A was thirteen colonies that formed a confederation; later America became 23 states and 52 states presently. The Americas federal system did not adopt self rule states to the units or minorities (Morgan, 2013). You cannot talk about federalism in Switzerland without emphasis on 1291. At that time, it was not a federation. They were twenty six (26) cantons who came together to form a confederation.

**Note:** Between 1291 –1848, Switzerland was a confederal state. Between 1776 –1789, America was a confederal state. It was however as a result of the civil war in Americas that led to the perception of some saying that there would be no more confederation or confederal states.

In 1291, three cantons (Components or states) in Switzerland also called Ote or Orle (Sovereign territories or independent states) came together and formed a treaty. In the treaty, it was stated that they would come together for the purpose of dominance. Also that the cantons in the treaty would remain sovereign but would have certain spheres of responsibility in case of external aggression. They also had a common treaty on commerce. This, treaty was to create a balance to ward off external forces. However, other cantons formed later. But at any time that any canton wanted to join, it would require another treaty (Morgan, 2013). In the 18<sup>th</sup> century (1798 -1813) Napoleon invited Swiz and centralized their political administration. He under France is disorganized all the structures in Swiz and brought the cantons together, thereby centralizing the states. Eventually, France was defeated in 1815. After this defeat, the cantons went back to their original states to become sovereign as they were before the inversion. At this time, Europe had started with the campaign for democracy. Meanwhile, among the cantons were the Catholics cantons and the Protestants cantons. The catholic cantons said that they did not want democracy. They wanted the old way (confederation), while the protestants cantons said that Europe was modernizing and that it would be wise if they follow sooth (Morgan, 2013).

Along the line, the catholic cantons formed a secret treaty to protect themselves from allying with the Protestants. However, the protestant cantons used force, fought and defeated the catholic cantons. After the defeat, they came together to form a federation. That was how federalism came to stay in Switzerland as practiced today (Morgan, 2013). The federal structure of Switzerland was as a result of a compromise that was resolved after a religious-motivated civic war (the *sunderbund*), where the protestant cantons, influenced mainly by French liberalism which favored a centralized liberal state, opposed the conservative catholic cantons advocating a confederal arrangement based on the original alliance of sovereign cantons. Originally, the cantons were sovereign states cooperating within a loose treaty of alliance called the confederation that emerged from the original 600 years-old treaty of alliance between three rural cantons which developed into a loose confederation with 13 cantons some associate members and some subordinated territories (Thomas-Fliener, 2011).

Since 1848 that Switzerland became a federal state and now, the federal constitution has been amended for about one hundred times.

Things to deduce from the above are as follows;

- The executive and legislative branches is awarded on America model
- Unlike the American constitution, the Swiss constitution can easily be changed
- It has a parliamentary system unlike America that has a presidential system
- It has both self rule and shared rule unlike America
- Education in domain of the cantons except unwanted federal where the fed government excesses power

#### *The Features of Swiz Federalism*

1. The federal system is made up of 26 cantons 6 of them are referred to as half cantons because they have only one representative each
2. Each of the cantons has its own constitution as applied to the people of the canton.
3. There is a federal court that protects and defends the rights of the citizens irrespective of where the citizens came from within the cantons.  
If a government of the cantons takes a decision on fundamental rights within the cantons, the federal court would adjudicate. Here, there is a similarity between Swiz federalism and Americas as American constitution has provisions for fundamental human rights. By implication, the federal court precedes over matters on fundamental human rights.
4. There was no federal police in the cantons. The cantons have their own police (unlike Nigeria) No IG (inspector general). How can an IG be in Abuja address issues on crime in Port Harcourt. The problem of crime was addressed within the cantons.
5. Education is taken care of by the cantons. Note that the essence of education is for national development. It is the institution for national development.
6. There were over 3000 municipalities in Switzerland.
7. The municipalities were not the creation of the Swiz Federation, rather the creation of the cantons.
8. There is no dualism between federal and state judiciary unlike America.
9. The cantons are always sovereign.
10. It lacks constitutional review unlike America.
11. It has bottom –up federalism like America
12. Unlike India, the cantons enjoy high autonomy.
13. The cantons have different army.
14. The cantons have different regards to religion.
15. The cantons have difference official languages. There is direct democracy.
16. It accommodated traditional diversities.
17. The cantons and municipalities have power to decide their official religion
18. The cantons run their school. The public schools cannot be run by the church

#### VI. FEDERALISM IN INDIA AND UGANDA

India is an outstanding case amongst federal states that emerged from colonialism. India emerged independent early

in the period of retreat from colonialism in 1947 and eventually became a federal state.

It is easy now to forget how many in 1947 were skeptical of India's chances of survival, a federal democracy or any kind of democracy. While India is cited as an example of a country whose federal design involves both holding together, and coming together, it was really much more the former (holding together) than, the latter and its historically established identity and integrity was a key element of its success in holding together (Imodu, 2009). India entered independence with a significant record of active internal politics and a dominant party that was able to steer the transition. It has regional inclivity. Regionalism has remained the most potent force in India politics ever since independence in 1947. There is an interaction between Regionalism and Federalism in India. There are a two –tier of government but with a provision for regional accommodation. Regionalism in India is seen as lee way for ethno religious accommodation.

### VII. HISTORICAL ANTECEDENTS OF FEDERALISM

The ideas of Federalism which originate with the concept of inter-governmental relations dates back to the Greek civilization, when efforts were made to describe the legal relationships between the leagues and the city-states. The leagues were however different from modern Federation in one respect in the following ways:

1. While the various governments freely interacted, no direct contact between the populace of the various governments was permitted.
2. The government of the league and city states could relate on how to solve social problems, but such relationship did not extend to the citizens.
3. The citizens of the leagues could only obey the laws emanating from the leagues, and the same goes with the citizens of the city states.

We started in the beginning that federalism as a concept emanated from the understanding of how the city-state and the league related in terms of power sharing or power relation. The whole idea of Federalism within this context borders on understanding the inter-governmental relationship between the league and city-state in terms of power relations. The league is a governmental structure in the Greek political system and the city-state is also a governmental structure in the Greek political system that came together as a confederation or as union of states, each retaining its independent states virtually intact.

In the Greek experience of Federalism, there was no relationship of power between the city-states and the leagues. In other words, Federalism as an idea within the context of the relationship between the city-states and the leagues in the Greek political worlds system centuries ago did not involve relationship of power between the citizens of the city-state and the citizens of the league. The citizens of the city-state obeyed the laws emanating from the city-state. The same vein, the citizens of the league obeyed the law emanating from the league. What this means by implication is that the citizens of both the former and the latter were not obliged to obey the law emanating from outside their own city-state or league. However, the two levels of it could relate on how to resolve

problems in the society but not in terms of power relation among the citizens. In other to understand this very well, let us use Nigeria as a case of comparison which explains modern Federalism. Looking into the Nigeria experience of Federalism and the way which the national government, state government and perhaps local government are able to collaborate on certain policy issues in order to solve national problems or implement certain policies that would be beneficial to the country, we would understand that the initial idea of Federalism in Greek is anachronistic.

For example, as a citizen of Nigeria, when a state government come up with a law or a policy, that policy will not stop you from obeying the law of the national government which must supercede the state law depending on the structure of the authority within which it operate Note that one of the reasons, for Federalism is to provide security. So, if a state government feeds that it has something extra in order to address security issues, apart from the police which is a federal institution to tackle crime in the state could go ahead, it does not stop you from obeying the Federal law on crime you only have to obey as long as they do not antagonize. By implication, you obey both laws emanating from the state and Federal obeying two levels of government. However, among the city-state and the league, this multiple response to law emanating from two levels of government or power was not there at all. In a nutshell, Federalism as an idea within the context of the relationship between the city-state and the league in Greek political world system centuries ago did not involve relationship of power among the citizens of the city-state and citizens of the league. This however, examines the initial idea.

#### *Modern Federalism (Concept)*

There is a gap between the initial ideas of Federalism. Modern ideas of Federalism simply sees Federalism as a kind of voluntary union of states who feel that there is need to conceal certain spheres of responsibility and authority for the purpose of a common goal. This is different from confederation. The definitions of K.C. Wheare and W. Livingston as well as other scholars find relevance in the modern context of federalism as we have discussed in the above subheadings.

### VIII. SUMMARY AND CONCLUSION

We are going to summarize and conclude this mental exercise using the views of two major scholars (Wheare and Livingston) on modern Federalism. These two scholars followed two diametrical opposing ideas or dimensions of federalism. Their arguments in line with the structural differentiations of the countries we looked into forms the basis of our summary and conclusion. While K.C. Wheare's definition falls on the classical point of view, the Livingston's definition falls on the sociological point of view or as a process. Wheare Sees Federalism as a legal constitutional division of power between two levels of government. For him, federal government must have a constitution that defines the spheres of authority of each of these levels of government. For examples, the Nigeria constitution of 1979 clearly defines the responsibility of the state and national government and categorized their responsibility into: The exclusive list, the

concurrent list, and the residual list. The exclusive list is within the responsibility or the authority of the national government to carry out e.g. foreign affairs, defense etc. on the other hand, the concurrent list is within the responsibility of the Federal and state government while the residual list is exclusively within the responsibility of the state government. But in a situation where there is a conflict between the responsibility of the state and that of the national government in the residual list, the national power will always supersede the state power.

To Wheare, the local government is not a tier of government, rather a product of the state. He also maintains that a federal state must be a democratic state. He correlates democracy with federalism. By implication, you will not say that a state is federal if the state is not democratic. This is where we have a problem with Nigeria Federalism under the military regimes (military federalism) as Nigeria was still referred to as a federal state irrespective of the military incursion in her politics. He also posits that a federal state must have an empire (a judge who settles conflicts). By implication, a federal state must have an independent judiciary – independent in the sense that neither of the levels of government will influence its responsibilities of making and adjudicating cases as well as settling conflicts between the levels of government. Succinctly put, a Federal state must have a constitution, must be a democratic state, and must have an umpire – must have a judiciary or high court.

Looking at K.C. Wheare's idea of Federation, it is clear that he is talking about a rigid structural political arrangement. He is talking about certain principles that must be observed for a state to be designated federal. However, Livinston is of the view that a federal state must not necessary have all the structural arrangements given by K.C. Wheare to qualify as a federal state. He argues that there are other social cultural and economic factors that could designate a state to be federal. According to him, even though a state may not have all the features as given by Wheare, it may have certain sociological forces that can define it or designate it federal. In other words, there are certain sociological forces that can constrain the restructuring or will make possible for the political arrangement in the society as to respond to these forces. For example, under the military Nigeria was still referred to as a federal state because the political arrangement of the country was in a way that things to havetakingcare of certain forces that were against the Nigeria political system as practiced. Before 1967, Nigeria was basically a federal state with a very weak centre. Between 1954 and 1957, Nigeria was a federal state of regions. The regions had so much power, so much so that the politicians had to retreat to their regions in order to be relevant in the political system of their regions.

But by 1967, something began to happen. The Eastern region took a certain decision that threatened the authenticity of the federal state. The Eastern region under the military administration took a decision to secede from the federation because the center was weak and the government of the Eastern region did that because there were certain issues that it felt would not be resolved in its interest. However, the national government took a decision to stop it. Meanwhile, the

minority were talking about inappropriate representation. The minority were talking about marginalization. So the national government decided to create more states to take care of the centrifugal and centripetal forces viz-a-viz being more federal (even though there was an interior motive or political economy behinds that). The national government created more states thereby imposing federalism on the people. So instead of regional federalism we had federalism of 12 states.

To this effect, the root to federalism in the Nigerian context was not as a result of negotiation, partnership, or collaboration but by imposition. By implication, Nigerian root to federalism was different from the American root to federalism. People even said that it was a centralization of power, while some said that Nigerians practiced unitary system of government then. However, whether the root to federalism is by negotiation partnership, collaboration or by imposition, federalism is federalism; because every concept has a root in reality. If we look at the idea of K.C. Wheare and the idea of Livinston, we will discover that both scholars are at two ends. K.C. Wheare sees federalism as a structure or design while Livinston sees it as a process. So you can look at federalism from the structural design perspective. You can also look at federalism from process perspective. So, even if it is a structure or design or process, it means that there is no finished federal system on the face of the earth or a model. Therefore, if you are looking for a model, you will not find it unless in heaven. Some people keep emphasizing on American model. The question is: is the American system a model? The answer is No. Every federal system is in a process of becoming better and American is no exception. Borrowing from a work from the Forum of Federation, America was not a federation at independence in 1776. Rather it became a federal state in 1787 but not until 1789 when their constitution clearly defined it as a federal State. To buttress this argument, since 1789 which the constitution defined America a federal State, federalism in America has experienced series of amendments to take care of certain forces (just like other countries). So, the American federal system is in the process of becoming better viz-a viz Nigeria and other federal states mentioned and unmentioned in this paper. Therefore, federal practice is context dependent.

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