

# Federalism and the Quest for Distributive Justice in Nigeria

Iveren Adoo Uganden

Department of Political Science,  
Benue State University, Makurdi.

## Abstract

This paper argues that agitations for the restructuring of the Nigerian federation constitute a demand for distributive justice within the public space. The unanswered question is whether any consensus exists on the principles of distributive justice and to what extent such principles determine actual distributions in Nigeria. Unlike secessionist threats, agitations for restructuring implicitly contain some concession to the immutability of the federation with an explicit identification of the presence of faults in its architecture. This has fuelled demands for a restructuring that would guarantee and safeguard a fair share in the commonwealth for all the components of the federation. Distributive justice is therefore identified in this discussion as the under-defined and under-invoked quotient in the summation of the Nigerian federation and demands for restructuring and even threats of secession are interpreted as functions of this challenge. Two related areas of distribution namely resource control and revenue allocation are examined against the requirements of three theories of distributive justice. The findings demonstrate a substantial deficit in distributive justice based on the perception of different segments of the Nigerian population.

**Keywords:** Distributive justice, Federalism, Resource control, Revenue allocation, Political inclusion.

## Introduction

It is plausible to place concerns with inclusive politics and a practical interest in distributive justice at the centre of agitations for a restructuring of the Nigerian federation. This implies that there is a notion of concession to the immutability of the federation as a political framework that requires a re-organization to safeguard the stakes of all. The Nigerian federation requires restructuring due to both foundational and acquired flaws. The major foundational flaw was the lopsided arrangement where the

Northern Region was larger both in territory and population than the Western and Eastern Regions put together (Arowosegbe, 2005; Ezeakunne, 2021; Fawole, 2013; Kehinde, 2005). The North alone had about 72% of the land area of the country and about half the population; with the effect that it controlled half of everything that had to be shared in the country (Fawole, 2013).

Although the federation has been restructured several times to produce the current 36 states edifice and the 6 geo-political zones, regional identities corresponding to the original 3 regions still exert significant influences on political permutations in the country especially power sharing arrangements. According to Kehinde (2005), some of the acquired dysfunctionalities of the Nigerian federation necessitating restructuring include inequitable and unjust revenue sharing formula, the minority question, access to state power and patronage, ethnicity and violence amongst others. Among the listed issues, an inequitable and unjust revenue sharing formula has informed the most stringent calls for resource control and true federalism in Nigeria. This is because as Kehinde (2005) argues, what obtains in the country presently is rentier federalism where the component units are subordinated to the centre and are not fully in control of their finances to allow them effectively perform their responsibilities.

In order to ensure its survival, Nigeria requires a restructuring for an effectively functioning federation in which the component units (states and ethnicities) possess a sense of identification and belonging, and of a shared public realm. (Adangor, 2015; Fritz & Menocal, 2007). It is equally important for the federation that the component units view their selves as vibrant and thriving. Agitations for restructuring emerge from either allegations or deep seated convictions of exclusion and marginalization in the management of public resources. Where individuals and groups especially ethnic minorities allege or experience exclusion from the management of public resources, there is a corresponding report of marginalization in the distribution of gains from the management

of these resources. This establishes the nexus between politics of inclusion and distributive justice as integral variables in the restructuring agenda. Mimiko and Adeyemi (2005) identify areas in Nigeria's national experience which can be included in this discourse on political inclusion and distributive justice. These include contentions and problems about equitable formula for power and revenue sharing, location of industries and infrastructure, organization and staffing of the military amongst other issues. According to the authors, concerns with these issues relate directly to the need to ensure all parts of the federation have a feeling of belonging.

One constant variable in the conversation is the attempt to create separate identities for perceived beneficiaries and losers in the skewed and unjust system of allocations. This produces a 'we versus them' identification scheme that has produced numerous crises witnessed over the years. These identities are numerous and include ordinary and non-governing Nigerians versus "a rapacious thieving elite" (Mimiko & Adeyemi, 2005, p. 55), weak states versus a strong central government, a civilian populace versus a military oligarchy, the South versus a Hausa/Fulani Northern oligarchy, oil rich Niger Delta versus the rest of the country, Muslims versus Christians amongst many other such divisive identities. The distinction between these pairs of identities has always been one of beneficiaries and victims in the distribution of either political or economic benefits or both.

The question that arises from these combinations is why concerns over political exclusion and marginalization have not been eliminated with constitutional and conventional provisions such as the federal character, quota system, derivation formula and attempts by political parties to rotate the presidency amongst the geo-political zones. To Mimiko and Adeyemi (2005) these concerns persist because official attempts to give all Nigerians a sense of belonging have either been superficial and cosmetic or have been manipulated to serve some parochial interests. In this discussion,

the attempt to produce explanations about exclusion and marginalization is carried out through the identification and understanding of the requirements of some general principles of distributive justice; to ascertain to what extent these principles underpin public allocations in Nigeria and to document the deficit in the application of these principles.

### **Theories of Distributive Justice**

In the existing literature on distributive justice, (Konow, 2001; Nozick, 1974; Rawls, 1971) advance theories and principles with direct relevance for the current discussion. Rawls (1971) is popular for his hypothetical original position or “veil of ignorance” which he views as a higher level of abstraction of the social contract theory as proposed by Locke, Rousseau and Kant. To Rawls, that which should pass as fitting a principle of distributive justice should be a choice made by members of society from an assumed original position of equality. This is a situation in which men are ignorant or unaware of their position in society; where they are unaware of how a particular set of principles for distribution will affect them because they do not know what their position in society will be. Such principles of justice will define the appropriate distribution of benefits and rewards of social co-operation because no one will be disadvantaged. In this regard, justice is viewed as fairness because the original condition of equality is fair.

According to Rawls (1971, p.208), “our social situation is just if it is such that by this sequence of hypothetical agreements we would have contracted into the general system of rules which defines it”. What becomes the natural outcome of a choice behind the veil of ignorance is society characterised by equal distributions or in the worst case, an amount of inequality that will work to everyone’s advantage. He sees no injustice where a few earn greater benefits as long as this improves the lot of those who are not so fortunate. Rawls (1971) however, rejects utilitarian principles as inconsistent with the idea of justice as fairness and argues instead

that persons choosing the ground rules from a place of equality would prefer personal interest to a maximisation of the greater good.

Since each desires to protect his interests, his capacity to advance his conception of the good, no one has a reason to acquiesce in an enduring loss for himself in order to bring about a greater net balance of satisfaction. In the absence of strong and lasting benevolent impulses, a rational man would not accept a basic structure merely because it maximized the algebraic sum of advantages irrespective of its permanent effects on his own basic rights and interests (Rawls, 1971, p.209-210).

From this conception, Rawls (1971, p. 209-210) proposed two principles of justice

the first requires equality in the assignment of basic rights and duties, while the second holds that social and economic inequalities, for example inequalities of wealth and authority, are just only if they result in compensating benefits for everyone, and in particular for the least advantaged members of society.

As much as these postulations are hypothetical, distributive justice from this perspective becomes that distribution which is based on specific principles agreed upon by the members of society which guarantees basic rights and duties and in which inequality is acceptable only if the condition of the least advantaged members of society is thereby improved.

(Nozick (1974) is best known for his entitlement theory of justice in holdings which argues that what determines whether a distribution is just or otherwise is the process of the distribution or how it came about. According to him, a distribution is just if everyone is entitled to the holdings they possess under the distribution. He elaborates this proposition under three principles. The first is the principle of justice in acquisition which has to do with the original acquisition of holdings or the appropriation of unheld things. In other words, the process through which things that previously did not belong to anybody were brought under the claim

of individuals or communities. Based on the principles so proposed, Nozick (1974, p.176) provides what he calls an inductive definition that exhaustively covers the subject of justice in holdings: (1) A person who acquires a holding in accordance with the principle of justice in acquisition is entitled to that holding. (2) A person who acquires a holding in accordance with the principle of justice in transfer, from someone else entitled to the holding, is entitled to the holding. (3) No one is entitled to a holding except by (repeated) applications of 1 and 2.

The third theorist of interest is Konow (2001) who views distributive justice as concerned with the final allocation of economic rewards and responsibilities; in other words, a distribution of both goods and burdens within any system of distribution. For him, the key questions to ask in a discussion on distributive justice are how are fair values determined and what determines fair outcomes? Konow (2001) answers these questions by looking at what he calls the four sides of distributive justice. These refer to three principles of distributive justice and the context. He enters the debate on whether there are any general principles of justice that cut across space and time or whether justice is context-specific. His argument is that justice is not context-specific but context-dependent and identifies three general principles of Accountability, Efficiency and Needs. Context is important because it impacts on the interpretation and application of the principles. The Accountability principle requires that allocations of goods or economic rewards should be in proportion to volitional contributions of individuals. For illustration, he says a worker who is twice as productive as another should be paid twice as much if the higher productivity is due to greater work effort but not if it is due to innate aptitude. This principle deals with the relative size of allocations across individuals. The Efficiency principle is concerned with the absolute size of allocations or the maximization of allocations. According to the Needs principle, a just allocation is one that is sufficient to meet

each individual's basic requirements for life. These principles of justice make up the three sides of distributive justice while context makes up the fourth.

Context plays a very important role "One aspect of context is how it affects the relationships among variables, such as the question of whether the pursuit of one justice principle coincides or conflicts with the pursuit of another" (Konow, 2001, p 139). There are also contextual effects on the principles of distributive justice which apply to how justice evaluation varies with the stated context and the prevailing variables and persons involved. Some variables that can apply to different situations are discretionary and exogenous variables. The discretionary variables are those variables that affect production and can be controlled by an individual as a member of a distribution system, while the exogenous variables affect production but are not under a person's control.

Other concepts which are important under Konow's schema are those of endowment and entitlement. Endowment according to him is an exogenous variable in production and refers to a person's portion of the allocated variable that is unrelated to any productive or merit-based activity such as naturally occurring resources. If the accountability principle for instance, is applied in a given situation, it will demand that each person receive equal shares of the total endowment. Entitlement depends on the perceived output or production of the allocable variable and a person's perceived input to the production either as labour time or the actual production. It varies in direct proportion to the value of a person's discretionary variables but not exogenous variables. In other words, a person's fair allocation is proportionate to the variables he controls. Entitlement is expressed as a formula consisting of terms that incorporate inputs, outputs, endowments and costs.

## **Prevailing Notions of Distributive Justice in Nigeria**

Within the context of the Nigerian federation, distributive justice applies to various areas of national life including an acceptable formula for revenue sharing (power sharing, the location of industries and infrastructure and includes who benefits from such industries and infrastructure. The organization, staffing of the military and security agencies of the nation as well as the general public service is also included in the narratives and demands (Mimiko & Adeyemi, 2005). Another salient issue is the administration of salaries and wages in the public sector which has witnessed a huge disparity between elected and appointed public officials on one hand and career public and civil servants on the other hand. To identify and delineate the philosophical flaws in thoughts on political inclusion and distributive justice, this paper isolates and focuses on the control of natural resources and revenue allocation which it identifies as the most contentious issues areas of distributive justice in Nigeria.

## **The Control of Natural Resources and Revenue Allocation**

Nigeria is naturally endowed with resources which include mineral, oil and gas deposits as well as vast arable land. As a non-industrialized country, it is a primary producer heavily dependent on revenue from the export of both agricultural and non-agricultural commodities. The country discovered oil deposits for the first time in 1956 at Oloibiri in present day Bayelsa state while explorative activities began in the late 1950s. From initial modest contributions, oil has become the mainstay of Nigeria's economy. Presently, oil accounts for about 87-90% of the country's export value and contributes over 80% to total national revenues (Abubakar & Onuche, 2022). Official and public efforts to diversify the economy are yet to produce any significant changes to the status quo. For some observers and analysts, oil resources have proved to be a mixed blessing providing vast resources that have



powered development across sectors but also engendering the phenomenon of resource curse. The main workings of the resource curse have created oil dependence and a mono-economy as well as violence and destruction. For instance, restiveness and agitations from the Niger-Delta and official response constituted the original reasons for Nigeria becoming a pariah nation from the late 1990s. This status was only altered after President Obasanjo extensive diplomacy.

At the centre of agitations and violence in Nigeria's Niger-Delta is contention over ownership and control of oil resources and what constitutes an equitable formula for the distribution of oil derived national revenues. Contentions about the right formula for distributing resources threaten even the very survival of the nation. This character was demonstrated at the 2014 national Conference (Adangor, 2015) where the few sessions or lone occasion of a staged walkout by delegates from a particular section of the country arose from deep disagreements over revenue sharing. The main source of disagreements over revenue sharing formula is the argument that there has been a shift from the original constitutional arrangements at independence that accorded power over resources to the component units. These units at that time possessed autonomy and exercised control over resources from their locations (Fawole, 2013). One can adduce that vesting of power over natural resources in the regions was based on the underlying assumption by Olawuyi and Onifade (2017) that resources such as petroleum and others are commonly owned by the people and only vested in governments to prevent problems of a Hobbesian state of nature and allow for authoritative decisions (Vermunt & Törnblom, 1996). However, regional ownership and control was jettisoned together with the justice it represented and the regional developments it facilitated. Regional ownership allowed for healthy rivalry over development as each region could harness its resources and tailor them to their peculiar needs (Harry, 2020). For instance, the Western Region leveraged its early exposure to western

education by deploying its resources in consolidating its already existing leadership in the sector. The region also developed and derived revenue from export crops especially cocoa. The more politically inclined Northern Region also deployed its economic resources in consolidating and extending its political hold over the Northern parts of the country and also developed its agricultural sector. In a similar vein, the more economically and commercially inclined Eastern Region also expanded commercially and in its development of infrastructure.

The subsequent marked departure from regional control over resources and the relegation of the derivation principle is interpreted as deliberate acts of manipulation by the dominant ethnic groups to rob the minorities of their naturally endowed resources. According to Adangor (2015, p. 115)

...when the application of the derivation principle served the economic interests of the majority ethnic groups in the federation of Nigeria, it was emphasized as the primary criteria for redistributing federally collected revenue to the federating units. However, with the emergence of oil and gas as Nigeria's main revenue source, the application of the derivation principle was deliberately de-emphasized by the Nigerian State as a major criteria for revenue allocation by the centre to the subnational units because the immediate beneficiaries of its application are the oil-producing States in the Niger Delta region .

The incursion of the military into politics and the substitution of a people derived constitution for a military contrived document known as the 1979 constitution subsequently reworked as the 1999 constitution gave an enduring effect to this alteration. The constitutional powers of the regions or states over resources and revenue was replaced by a revenue sharing arrangement within which all natural resources of the country have been placed within the powers of the federal government which explores and deploys them according to a revenue sharing formula that gives prominence to it. This arrangement scarcely provides an explicit

procedure for a fair distribution of benefits and burdens as a cardinal requirement of distributive justice.

Distributive justice under this arrangement therefore provides room for the emergence of contrasting arguments that arise both from the source communities (Southerners) referred to as the protagonist and the Northerners as the antagonists. The louder voices come from the protagonists who demand that based on the principles of equity and justice, they should control and manage their resources because they bear the burden of exploration activities (Tochukwu et al., 2018; Unya, 2022). Given the current dominance of oil in foreign exchange earnings, these louder voices are from the nation's Niger-Delta which produces all of Nigeria's crude. For this segment of the country, distributive justice in its proper form amounts to the previously existing arrangement where the control of resources rested with the regions. Given the impracticability of this provision under the existing constitutional provisions of central ownership of resources, a compromise arrangement is proposed which allocates a large percentage of oil revenues to oil producing states invoking the principle of derivation. Anything below this is considered unjust and even immoral. The existing reality in the Nigeria's Niger-Delta of a high level of poverty and official neglect coupled with environmental degradation from oil exploration contrasts this demand. The region while creating wealth and material comfort for the majority groups in the country wallows in massive poverty as a function of social and economic injustice meted by the government at the centre. (Arowosegbe, 2005). While these negative circumstances can also be attributed to official corruption by Niger-Delta political elite and natural flooding respectively, it is undeniable that the control and management of oil resources remains the central explanatory factor.

An intellectual interpretation of what constitutes justice in the distribution of Nigeria's natural resources would depend significantly on whether one applies Rawls or Nozick's schema on

distributive justice. Rawls's reasoning would favour a distribution which does not necessarily pursue utilitarian goals but which accommodates the interests of the component units of the federation. In this regard, the subsisting arrangement by which the ownership and control of natural resources is centralized and guided by the principle of derivation could be viewed as just and fair. This is because, while the source communities are advantaged in the distribution of oil revenues as a function of derivation, the rest of the country does not suffer deprivation on account of lack of natural endowments.

Rawls' (1971) idea of a veil of ignorance presents a useful starting point for a debate on what is fair for both the oil producing and non-oil producing components of the federation. Assuming that the component units had the opportunity of deciding or choosing principles of distribution prior to awareness of natural resource endowments, what would have been the choice of principles? The immediate answer to this question is that the vitiation of the original derivative principle as practiced under the First Republic and its substitution with other formulas for distribution is not in sync with Rawls' veil of ignorance as the formula was changed when oil became the main stay of Nigeria's economy. According to Adangor (2015, p, 127), from 1954-1969 derivation varied from hundred per cent to fifty per cent. However, after oil became the main source of national revenue, derivation dropped from forty-five percent in 1970 to zero percent in 1979 and one per cent in 1992. The principle was even rejected by the Okigbo Commission of 1980 as divisive. Under the current arrangement, other principles of allocation (population, equality of states, internal revenue generation, land mass, terrain, and population density apparently rate higher than the 13% derivation (Adangor, 2015; Kehinde, 2005).

Also the level of poverty and official neglect as a function of inequality experienced by the oil producing communities is grossly beyond the level considered acceptable by Rawls. Inequality in this

case has not resulted in compensating benefits for everyone, but has rather placed disproportionate burdens on the least advantaged who contend with loss of livelihood due to the destruction of their environment and official neglect. Olawuyi and Onifade (2017, p. 320) argue that based on the principles of Functional Distributive Justice “benefits and burdens of resource exploitation must be fairly distributed in manners proportionate to ownership stakes and risk exposure”. It has not been clearly demonstrated that the benefits accruing to the source communities from oil exploration are commensurate to the environmental damage and pollution caused by oil exploration and processing. In these communities, basic infrastructure is lacking, poverty levels are high and there is a prevalence of diseases resulting from pollution. Utilizing Rawls principles for distributive justice therefore, the control of natural resources and the distribution of oil resources can hardly be considered as fair or just.

For the non-oil producing components of the federation, distributive justice entails a ‘fair’ allocation to all as bona fide members of a single economic unit. For such it is fitting to justify fair share as a derivative of contribution to the nation’s economic fortunes in the non-oil sector including agricultural and food production as well as solid minerals.

Norzick’s theory also provides room for the raising of useful questions. The first is that is there justice in acquisition where the Federal Government by legislation acquires ownership of all natural resources in the country? Secondly, assuming that these resources were already held by states or communities was there justice in transfer of holdings with the take-over of these resources by the Federal Government? Thirdly, is there any need for rectification of injustice either in acquisition and or transfer of ownership of natural resources? Other relevant questions can be drawn from Konow’s theory. The first according to the accountability principle is that is the revenue allocated to oil producing states proportional to their contribution to total

national revenue? Secondly, how efficient is the system of distribution? Third is that to what extent do allocations comply with the Needs principle?

Going with Nozick's (1974) idea of justice in the acquisition of holdings by which previously un-held things are acquired, distributive justice in its proper form would amount to an arrangement where the control of resources rested with the regions as the source or owning communities. Nozick's idea of justice in the transfer of holdings which refers to the process through which a person may acquire a holding from another who already holds it appears to have been violated in the transition from regional control of resources to the current centralized system in Nigeria. Violation is attributable to the fact that take-over of control was accomplished by fiat and not a voluntary transfer by the source communities. For justice to be served, Nozick's third principle of rectification of injustice which is the restoration of holdings to the rightful owner in the case of injustice in acquisition or transfer should take place. The persistent and stringent calls for restructuring in which oil producing states demand the control of their oil resources finds strong support in Nozick's theoretical postulations.

Konow (2001) views distributive justice as concerned with the final allocation of economic rewards and responsibilities; in other words, a distribution of both goods and burdens within any system of distribution. The political relationship between the major ethnic groups and their respective regional minor Submission of articleities demonstrates an unbalanced distribution of goods and burdens where the latter is courted for political and economic advantage by the former but repudiated when it demands for benefits. Konow's principle of accountability which requires that allocations of goods or economic rewards should be in proportion to volitional contributions of individuals is also violated under this schema. It falls short of justice where for instance, northern minorities contribute enormously to national political victories of

the region but are marginalised on the table of distributing political appointments. Also, the case where oil revenues run the country but the natural owners of oil resources are marginal in the running of the country is a cause of political and social dissonance. This manner of distribution also does not meet the requirements of the principles of efficiency and needs as it neither maximises allocations nor does it meet individual needs for life.

## Conclusion

There is no doubting the fact that secessionist agitations exist in present day Nigeria as exemplified by the demands by the Indigenous People of Biafra (IPOB), Oduduwa Republic amongst others. However, the dominant disposition is towards a permanent one and indivisible country which nevertheless needs to be restructured to function effectively in the interests of all. Distributive justice in the context of the Nigerian federation therefore equates inclusivity and fairness in the distribution of powers, responsibilities and resources. However, while it is right and proper that identifiable malaise in the polity should be addressed to give everyone the sense of a shared public realm, demand for distributive justice should be responsible enough not to tilt the country over the precipice. Demands for distributive justice where overly subjective and emotive could end up serving disruptive as opposed to constructive purposes as witnessed in the plethora of agitations and trouble spots in Nigeria of today.

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