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Inter-Regional Inequality Facility
sharing ideas and policies across Africa, Asia and Latin America

Affirmative Action

Nigeria

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Objectives

Nigeria is inhabited by 470 ethnic groups, which are distinguished by language, customs and religious beliefs and vary in size, power and influence. Groups in the southern region of the country have traditionally had much higher levels of education and employment in the public sector than groups in the northern region. Much of the country's politics revolves around methods of preventing or resisting fears of domination of one region or ethnic group over the others.

To cope with the problems created by its multi-ethnic society, and to encourage a spirit of 'unity in diversity', successive constitutions of Nigeria have included specific provisions to promote power sharing, and to protect groups considered to be relatively disadvantaged. These include the anti-discrimination clause, the Federal Character Principle, and the Federal Character Commission.

Description

The anti-discrimination clause in the constitution requires that no citizen of a particular community, ethnic group, place of origin, sex, religion or political opinion is subject to disabilities, restrictions, privileges or advantages to which other citizens are not subject. The Federal Character Principle requires that there is no predominance of persons from a few states or from a few ethnic groups in the government or any of its agencies. The Federal Character Commission enforces compliance with the Federal Character Principle, and in particular establishes, monitors and enforces an equitable formula for the distribution of employment in the public services across the 36 states in the country.

Lessons learned

There is a strong ideological commitment in Nigeria to the country's form of affirmative action, in the form of its Federal Character Principle. Nevertheless, affirmative action is difficult to implement because of a lack of a strong political will to do so. This in turn reflects the politics of patronage that is practiced, and the lack of functional transparency and accountability mechanisms. In addition, positive discrimination for one group is often read as negative discrimination by others.

In the short term, a number of measures could improve the experience of affirmative action policies in Nigeria. First, state governments should be encouraged to develop mechanisms for implementing the Federal Character Principle at the state or local level. Second, the Federal Character Commission should be compelled by popular pressure to publish public sector statistics every year. Finally, there could be more effort by the Ministry of Justice to prosecute flagrant disregard of the Federal Character Principle. In the longer term, the process would also benefit from the adoption of a proportional electoral system, which generally leads to significant increases in the proportion of ethnic and religious minorities who are elected into parliament.

Background

In the past fifty years, Nigeria has been obsessed with fears of domination by one ethnic, regional or religious group over others. Much of the country's politics revolves around methods of preventing or resisting such domination. These fears emerged quite clearly during the 1950s in the period proceeding independence. In 1953, a motion was moved in the House of Representatives calling for self-Government in 1956. While politicians from southern regions were supportive, those from northern regions opposed it, because they believed that their relative backwardness in education and public service employment would lead to their domination in an independent Nigeria by southerners.

In the discussions that followed, it was agreed to make Nigeria a federation of three regions, North, East and West, with residual powers vested in the regions. By 1960, when the country gained independence, the ideal of fair representation of all the regions in federal appointments had become accepted, although without specific quotas. However, in recruitment into the officer corps of the armed forces and the police, a quota system was applied. This quota arrangement continued up to 1967, when twelve states were created to replace the three regions, and the formula was reviewed and applied on the basis of equal numbers from each state.

Ethnic and regional inequalities

The story of Nigerian nationalism has always been told against a background of strong ethno-regionalism. This has been entrenched by strong inequalities in access to education: groups in the north, in general, have much lower levels of education than groups in the south. This translates into higher levels of employment in the public sector for southern groups, which adds to the tensions surrounding the inequality question.

The evolution of western education in colonial Nigeria was based on the implantation of Christian missionaries. However, the colonial authorities had an agreement with the Muslim Emirates in the northern part of the country that they would not allow Christian missions in that zone. The Emirates already had an educational system based on the Islamic tradition, with numerous schools that taught Arabic and Islamic education and encouraged reading and writing in the Hausa language. This meant that the development of Western education in the North was very slow during the colonial period, leading to education inequalities between the North and the South. In 1957, for example, the primary school population was just 205,000 in the Northern region, compared with 2,190,000 in the Southern region.

More importantly, these gaps in education have persisted through to the present day. They are especially high at the level of tertiary education, with many more students from the South being admitted into universities, and graduating, than students from the North. According to figures released by the Joint Admissions and Matriculation Board for the 1995/96 session, there were 43,688 university applications from the southern state of Imo, of which 7,837 got admission. By contrast, there were only 784 applications from the Northern state of Yobe, of which 272 were admitted. Given these wide disparities in access to higher education, it is not surprising that the number of applicants for posts in the public services is also much higher among southerners than northerners.

Gender inequalities

There is also a strong gender dimension to inequalities in access to education and employment in public services. There is wide gender disparity in Nigeria's literacy rate, with the UNDP Human Development Report reporting literacy rates of 62.5% for men and 37.5% for women (Suara, 2000:25). In terms of access to university education, figures for 1997/98 show that only 33% per cent of Nigerian undergraduates were female (Pereira 2005).

The marginalisation of women in Nigeria's patriarchal political system dates back to the colonial era. Indeed, women were not even allowed to vote in Northern Nigeria until 1976. The marginalisation of women has continued into the Fourth Republic. For instance, out of a total of 11,881 electable positions available during the 1999 elections, only 631 were contested by women. Those that managed to win were a mere 181 (1.6% of the total).

Details

The framers of the 1999 constitution, like all the previous constitutions, had the intention of using the provisions on citizenship and fundamental rights to promote the objective of building a united and free society for all Nigerians. This is in keeping with the vision of the founding fathers of modern Nigeria who led the anti-colonial struggle. The same objective reappears in many important national documents, such as the Second National Development Plan which states clearly that the goal of national development is to build a strong and buoyant economy, and a free, democratic and egalitarian society in which no one is oppressed on the basis of sex, ethnic or religious differences.

The objectives of national integration and cohesion are reflected in three main areas: the anti-discrimination clause, the Federal Character Principle, and the Federal Character Commission.

Anti-discrimination

The 1999 constitution of the Federal Republic of Nigeria contains an explicit anti-discrimination clause (Section 42), which states that:

"A citizen of Nigeria of a particular community, ethnic group, place of origin, sex, religion or political opinion shall not, by reason only that he is such a person –

(a) be subjected either expressly by, or in the practical application of, any law in force in Nigeria or any executive or administrative action of the government, to disabilities or restrictions to which citizens of Nigeria of other communities, ethnic groups, places of origin, sex, religions or political opinions are not made subject; or

(b) be accorded either expressly by, or in the practical application of, any law in force in Nigeria or any such executive or administrative action, any privilege or advantage that is not accorded to citizens of Nigeria of other communities, ethnic groups, and places of origin, sex, religions or political opinions;

and also that:

“No citizen of Nigeria shall be subjected to any disability, or deprivation merely by reason of the circumstances of his birth.”

Furthermore, Section 15 (3) of the 1999 constitution states that: “For the purpose of promoting national integration, it shall be the duty of the state to (a) provide adequate facilities for and encourage free mobility of people, goods and services throughout the Federation; (b) secure full residence rights for every citizen in all parts of the Federation.”

The Federal Character Principle

The second chapter of the 1999 constitution, entitled ‘Fundamental Objectives and Directive Principles of State Policy’, enunciates principles of equity and inclusiveness known as the ‘Federal Character Principle’. This is stated as follows:

The composition of the Government of the Federation or any of its agencies and the conduct of its affairs shall be carried out in such a manner as to reflect the Federal Character of Nigeria and the need to promote national unity, and also to command national loyalty, thereby ensuring that there shall be no predominance of persons from a few states or from a few ethnic or other sectional groups in that government or any of its agencies.

The Federal Character Principle applies to various policy fields including the economy and employment, educational and social policies. Section 14 (4) of the 1999 constitution calls on the states and local governments in the country to implement the principle, although no specific implementation mechanisms were created for doing so. In addition, the Federal Character Principle is operative at the federal level only. There are no mechanisms at the state level to ensure equity between local governments, and there are no mechanisms at the local government level to ensure equity between wards. Gender inequalities are also totally absent from the quota principles.

The Federal Character Commission

The Federal Character Principle has been embodied in the Nigerian constitution since 1979. However, the 1994/1995 constitutional Conference recommended that a Federal Character Commission should be established to enforce compliance with the principle. The Federal Character Commission was subsequently established in 1996, with the following core functions:

- (a) to work out an equitable formula ... for the distribution of all cadres of posts in the civil and the public services of the Federation and of the States, the armed forces, the Nigerian Police and other security agencies;
- (b) 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;
- (c) to take such legal measures including the prosecution of the heads of staff of any Ministry, Extra-Ministerial Department or Agency, which fails to comply with the Federal Character Principle.

The foundational principle of the Commission’s formula at the national level is the equality of states. Indigenes of each of the 36 states in the country and Abuja, the Federal Capital Territory, are supposed to have an average quota of 2.5%, with an upper limit of 3%, in each Federal establishment in the country. This principle has been in application in the armed forces, the police and other security forces since the 1960s.

Impacts

The last published report of the Federal Character Commission was the 2000 report which showed gross inequalities in the distribution of federal jobs in the country due to “historical factors, ethnicity and inadequate information given to prospective candidates about recruitment exercises” (Federal Character Commission, 2000). These are shown in Table 1.

Table 1 Disparities in employment in federal establishments by state, 1999

State	Zone	Total Staff	%
Ogun	South West	14,302	7.5 %
Imo	South East	12,474	6.6%
Plateau	North Central	5,399	2.8 %
Yobe	North East	1,625	0.9%
Bayelsa	South South	1,223	0.6%
Zamfara	North West	803	0.4%

Source: Federal Character Commission, 2000.

There are strong indications that the disparities shown in Table 1 have not been reduced over the past six years of the Obasanjo elected administration. In 2005 for example, the Federal Character Commission indicted the Federal Ministry of Employment, Labour and Productivity for violating the principles of Federal Character. For the year 2002, the Commission reported over-representation in the Ministry’s workforce of Abia, Akwa Ibom, Delta, Imo, Ogun, Ondo, Osun and Oyo, and under-representation of Borno, Kaduna, Kano, Adamawa, Plateau, Katsina, Nasarawa, Niger, Taraba, Bauchi, Bayelsa, Jigawa, Ebonyi, Kebbi, Yobe, Sokoto, Zamfara and FCT. The nine ‘over-represented’ states accounted for 49% of the Ministry’s workforce, while the 18 ‘under-represented’ states and the FCT accounted for only 13%. The Ministry has not filed in new returns since the 2002 figures.

While the Federal Character Commission has powers to prosecute offenders of the quota system, in practice it has not been able to do so. Some attribute this to the practical difficulties of one government agency charging another in court, while others argue there is instead a determination of groups in power to continue to violate the Federal Character Principle. In March and April 2005, for example, when the Nigerian National Petroleum Corporation employed managerial staff in which the President’s South West zone was grossly over-represented, the appointments were not rescinded despite complaints from the Commission and the northern press (Mohammed 2005).

National policy on education in Nigeria was first developed in 1977, following the introduction of universal primary education scheme in 1976, and was reviewed in 1998 and 2004. In 1999, the

universal basic education programme was launched to guarantee nine years of education to all Nigerians, but the country remains very far from that target. The major problem is that the commitment to correcting inequalities has been hampered by lack of financial commitments to critical sectors. It has been pointed out, for example, that since the return of democracy in 1999 “the budgetary allocation to education reached its peak of 11.1% of the total budget in 1999, and has consistently declined since then – 8.35% in 2000, 7.0% in 2001, 5.9% in 2002 and a paltry 1.8% in 2003” (Olurode, 2003). Not surprisingly, the general level of education in the country has remained low, and regional disparities have remained high.

Lessons learned

There is a strong ideological commitment in Nigeria to the country’s form of affirmative action, known as the Federal Character Principle. The commitment is fuelled by fears of ethnic, regional or religious domination, and is supported by the country’s federal structure. Affirmative action is however difficult to implement in the country because of lack of a strong political will to do so (Toyo, 2003). The country has a rentier economy based on dependence on petroleum revenues. This impacts strongly on politics, which is centered on access to political power to allow political entrepreneurs to benefit from the spoils system that has developed. The politics of patronage that is practiced, and the lack of functional transparency and accountability mechanisms, make it difficult to implement affirmative action policies.

In addition, some of the concerns expressed by Woddy (2004) with respect to affirmative action in South Africa might in fact be more relevant to Nigeria. Every ethnic, regional and religious group in Nigeria has a narrative of discrimination and marginalisation, which makes the implementation of affirmative action policies in the country difficult. Positive discrimination is often read by the others as negative discrimination.

Effective affirmative action therefore needs to be comprehensive to be effective. The scope of affirmative action in Nigeria should be broadened to include the gender dimension, and to bring more ethnic minorities into the mainstream. The process would also benefit from the adoption of a proportional electoral system. This is usually quite an effective instrument for the implementation of affirmative action policies, because it generally leads to significant increases in the proportion of ethnic and religious minorities who are elected into parliament. This in turn gives voice to such groups and helps create opportunities for discriminatory practices against such groups to be addressed.

In the short term, a number of palliative measures can be taken to improve and broaden the implementation of affirmative action policies in the country.

- First, state governments should be encouraged to develop mechanisms for the implementation of federal character principles in the public services of state and local governments. This would allow for the application of the principles enunciated in the 1999 constitution.

- Second, the Federal Character Commission should be compelled by popular pressure to carry out its statutory duties of publishing public sector statistics every year. Presently, it is not even possible to monitor the implementation of the policy, because since the coming to power of the Obasanjo regime no figures have been released. This non-availability of official figures makes monitoring and enforcement very difficult.
- Third, there should be more political will at the level of the Ministry of Justice to prosecute flagrant disregard of the Federal Character Principle reported by the Commission.

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