

Challenges Confronting Buhari in Nigeria

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Part II. Advancing Economic and Constitutional Reforms

Rotimi T. Suberu

In the second part of Professor Suberu's sober analysis of the challenges confronting Muhammadu Buhari and the APC government, he dissects the myriad problems posed by the mismanagement of the country's extensive oil and gas resources. Equally significant, but seldom appreciated, is the great experiment in democratic constitutionalism represented by the Nigerian federation. Professor Suberu is an outspoken advocate of a moderate and inc

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approach to constitutional reform. He outlines the failure to enact many of the cogent proposals recommended by legislators, commissions, and a national conference. Will Buhari and the APC implement the fundamental changes in political and economic governance promised to the Nigerian electorate? Major hurdles must be surmounted including managing a grand coalition party. According to the author, both cautious optimism and reasonable pessimism are warranted.

Managing the Oil Economy

Its considerable economic diversification and growth over the last decade notwithstanding, Nigeria continues to experience high levels of poverty, joblessness, and social and regional inequality. In addition, over two-thirds of government budgets and export earnings are still derived from the extractive sector, making the country prone to systemic corruption, economic mismanagement and fiscal instability inherent in oil-dependent economies. Overcoming the “curse of oil” will require progress with two instruments: the Petroleum Industry Bill (PIB) and a rainy day fund drawn from oil revenues.

Several versions of the PIB have been put forward since 2008 with the overriding goal of creating a comprehensive and improved regulatory framework to reform Nigeria’s corrupt, inefficient and chaotic oil industry. Yet a new petroleum industry act has not been approved by the national legislature, thereby creating regulatory uncertainty and discouraging new investments in the industry. This failure has been especially detrimental to the gas sector in which higher productivity is essential for ending Nigeria’s debilitating electricity shortages.

Essentially, the PIB has suffered from disagreements among industry stakeholders over several aspects: increasing compensation and participation for restive communities in oil-bearing areas; revising upward the petroleum profit tax and royalty regime; and restructuring and unbundling the NNPC. Failure to make progress on the PIB has prompted calls for a more piecemeal approach to oil sector reform, with a particular focus on NNPC re-organization. A sclerotic behemoth, the NNPC is perhaps the most dysfunctional state oil company in the world. It is insolvent, opaque, corrupt, unwieldy, unprofitable, and unaccountable, operating essentially as a source of slush funding for the Nigerian president, his minister of petroleum resources and their business-cum-political networks.

While debates will persist regarding whether the NNPC should be commercialized, semi-privatized, or fully privatized, an immediate objective of reform would be to promote the

company's economic viability and profitability, operational autonomy, and political insulation. The ultimate goal is liberate this corporation from vested political interests that have made it a cesspool of racketeering and financial mismanagement.



Nigerians expect President Buhari to deliver major oil sector reform. (Source: YNaiga.com)

Beyond cleaning up the NNPC, oil sector reform must reduce the susceptibility of Nigerian public finances to volatile petroleum prices and production. The recent sharp decline in international oil prices, for instance, has plunged Nigerian national and subnational governments into a fiscal crisis, with many state governments unable to pay the salaries of public servants. For decades, Nigerian policymakers have tinkered with measures to save oil revenues as insurance against sharp fluctuation in prices. These include a savings and stabilization provision in the revenue sharing formula, a sovereign wealth fund (SWF) and, most significantly, an excess crude account (ECA) for national income above a benchmark for oil prices. However, these measures have largely failed to insulate the country's political economy from the boom and bust cycles of the international oil market.

One reason for Nigeria's inability to mitigate its fiscal exposure to oil shocks is the absence of a constitutional basis for establishing such buffers. Current measures for saving oil revenue have become the object of political wrangling, persistent litigation, and fragile (and relentlessly flouted) compromises between the federal and subnational governments. Essentially, payments into the stabilization/savings accounts and SWF have remained negligible. At the same time, state governments have repeatedly blackmailed the federal government into distributing and depleting, rather than protecting, whatever revenues have accumulated in the ECA. The failure

to design a credible oil revenue savings system reflects broader pathologies in Nigeria's intergovernmental constitutional architecture, which is almost exclusively based on the redistribution of centrally collected oil revenues to fiscally inefficient and unviable federal, state and local governments. These distributional practices have created what Deputy Senate president Ike Ekweremadu has aptly called, "feeding bottle federalism" (Ekweremadu 2013).

Constitutional Reform: Major Overhaul or Incremental Improvement?

Nigerian elder statesman and former Commonwealth Secretary- General, Emeka Anyaoku (2012), has declared: "I do not believe that we can successfully tackle the serious challenges currently facing our country on the basis of our existing constitution and architecture of governance. Without far-reaching changes to the 1999 Constitution and our present governance structure, our quest for peace, stability and development will remain elusive." Yet there is limited national appeal for the type of radical constitutional reform favored by Anyaoku and many southern Nigerian proponents of "true federalism" (Suberu 2015). Their reform agenda includes consolidating the current thirty-six states into fewer, larger, and more financially autonomous, viable and competitive ethnic regions. Critics fear that such consolidation could return Nigeria to the colonially bequeathed system of centrifugal ethno-regional federalism which imploded in the Biafran civil war (1967-70).

Much of the agitation for "true federalism" is unpopular in the north, where it is viewed as a southern scheme to weaken and eventually dismember a federation in which the demographically dominant north is economically dependent on southern-derived petroleum revenues. While several elements in the All Progressives Congress (APC) embrace major constitutional reform, President Buhari has shown more concern for good political leadership and clean governance. Constitutional changes ratified by the National Assembly since 2010, as well as recommendations from bodies such as the National Electoral Reform Committee (Uwais Committee) and the 2014 National Constitutional Conference, promote a less contentious and more incremental scheme of constitutional reform (Suberu 2015). This moderate approach focuses on (1) reducing presidential powers over the composition and budgets of critical oversight agencies, and (2) devolving more functions and resources to the current thirty-six states. These subnational governments cut across, rather than reinforce, the country's major ethnic divisions.

Three sets of alterations made to the 1999 Constitution in 2010-11, for instance, included reforms to enhance the integrity of the electoral process by reducing the scope for presidential

interference. Among other changes, the reforms endowed INEC with significant budgetary autonomy from the presidency, and introduced legislative oversight of the president's previously unilateral powers to appoint INEC state commissioners. The Fourth Constitutional Alteration Bill – although it was not ratified by outgoing president Jonathan – included proposals for curbing presidential power over the budgets or operations of key oversight entities like the revenue allocation commission, security agencies, and offices of auditor-general, attorney-general and accountant-general of the federation. An even more important proposal for constitutional reform, inspired by the Uwais Committee, would transfer from the president to civil society and the judiciary the authority to nominate and recommend persons for the boards of oversight agencies such as the electoral commission.

Several other relatively modest and broadly supported proposals for constitutional change deserve reconsideration and enactment. The aborted Fourth Constitutional Alteration Bill, for instance, also provided for state indigene rights on the basis of residence, marriage or place of birth (rather than exclusively on the basis of ancestry), guaranteed citizens' rights to basic education and primary and maternal healthcare, and enhanced subnational legislative powers over subjects like railways, labor, and stamp duties. Similarly, the recommendations of the 2014 National Conference included decentralist proposals for greater revenue devolution to subnational governments, as well as for separate state constitutions, police departments, prisons, and courts of appeal (Suberu 2015).

Significant benefits would accrue to the nation if these incremental changes were enacted. These reforms, for instance, could reduce the ethno-political stakes of presidential control, deflect the insistent demands for more radical and likely destabilizing alterations in the central government, further increase the quality of the electoral process, strengthen the capacity of subnational states to respond to security and development challenges, and generally enhance the country's prospects of consolidating its still-fragile civilian political system.

Will Buhari and the APC rise to the challenge?

During the election campaign, President Buhari and the APC promised "change" to a population reeling from inter-group mistrust, insecurity, grand political corruption, unequal and jobless economic growth, and systemic failures of political governance. To provide meaningful change, the new administration will have to manage Nigeria's intricate ethnic arithmetic, address underlying socio-economic and political drivers of ethnic and sectarian violence, promote anti-corruption reforms, creatively and prudently oversee the country's oil wealth, and respond to

persistent agitation for constitutional change.

An assessment of the new administration's prospects for successfully navigating these challenges can yield either cautious optimism or reasoned pessimism. Despite Nigeria's socio-political travails, its recent history shows its resilience as a nation and the capacity for reform. The economy has expanded by an average of seven percent annually for over a decade, while civilian rule has been sustained since power was transferred from the military in 1999. As indicated above, the Fourth Republic has witnessed significant advances in the quality of electoral administration, in the emergence of competitive political alignments, in the cross-ethnic mobilization of political and civil society around issues of good governance, and in the articulation and implementation of constitutional reform.

The initial euphoria following the electoral victories of the APC and Buhari's inauguration has, however, begun to ebb. Not only has the new president failed to complete his federal cabinet, his initial administrative appointments have provoked fears of marginalization in the south, even as his government faced a spike in Boko Haram's attacks. Also, while Buhari's personal anti-corruption credentials remain impressive, fighting corruption will require far-reaching institutional reforms that will be unpopular with the Nigerian political class, including many elements in the broad coalition that brought him to power.

Although the APC's platform includes a formal commitment to institutional and constitutional reforms, the party's ability to provide policy direction for the administration is undermined by its internal schisms. An intra-party feud has already erupted over the distribution of leadership positions in the National Assembly. Still, although Buhari's government might not produce a radical change from the failures of the Jonathan presidency, a resumption by external analysts of the extreme pessimism shown during the pre-election period would be misplaced. The most likely prognosis for Nigeria is that the Buhari administration – as its predecessors in the Fourth Republic – will muddle through rather than decisively tackle the major political and socio-economic challenges. As suggested throughout this article, ample opportunities exist for significant improvement in the structure and quality of governance in many sectors. Unknown at this time, however, is whether Buhari and his associates will rise to meet these historic challenges.

Rotimi Suberu is a Professor of Political Science at Bennington College. His main research interests are Nigerian government and politics, the management of ethnic and religious conflicts,



federalism and democratization.

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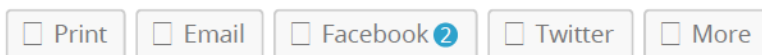
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