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MANAGING COVID-19 IN A 'FAÇADE FEDERALISM'

The case of Nigeria

Lukman Abdulrauf

19.1 Introduction

On 27 February 2020, Nigeria, one of Africa's major federations, recorded its first case of Covid-19. The pandemic struck at the peak of its political, economic, and social challenges. The country had just emerged from a bitter election further polarising it along ethno-religious lines; economically, it was battered by a sharp fall in oil prices, a huge infrastructural deficit, and corruption. Indeed, at the turn of 2020, it was in its second recession in four years, with unemployment and soaring poverty rates a cause for grave concern.

Nigeria's population is estimated at 208 million, making it the largest country in Africa and seventh largest in the world (WPR 2020). Most of its people are concentrated in a few cities, with Kano in the lead with about 14 million, followed by Lagos with 13 million (NBS 2018). The population is not only large but diverse. More than 500 ethnic groups are spread across different regions that together span an area of 923,768 km², a fact pointing to the reasons that the country adopted federalism.

Politics in Nigeria – a country divided into a Federal Capital Territory (FCT) and 36 states that comprise 774 local governments – is heavily influenced by ethnicity and religion. Of its two main parties, the People's Democratic Party (PDP) was the dominant party until its defeat in the 2015 elections by the All Progressives Congress (APC), which is currently the ruling party at federal level, albeit not without serious opposition from the PDP. Much of the North and South-West are controlled by the APC; the PDP controls the East and South-South.

Health care has long been a campaign priority for political parties, yet there is little to show for it. Nigeria's average life expectancy of 54.5 years is one of the lowest in West Africa, while rates of HIV-AIDS, poliovirus, and child and

maternal mortality remain high, with one out of every five children dying before the age of 5 (WPR 2020). The weaknesses this indicates in the public health system were further exposed by the Covid-19 pandemic. After the country's first case was recorded, the federal government re-assessed the system and admitted that until then it had never realised the extent to which health care in Nigeria is in decay.

The rate at which the coronavirus began to spread in Lagos and FCT was alarming. The first 30 days after the first confirmed case showed an elitist disease distribution in that most of the infected persons were returnees from abroad (NCDC 2020a). When it became obvious that community transmission had started, it was the Lagos state government that took the first concrete step of imposing a lockdown in the state.

By August 2020, Nigeria reached the peak of its infections and, with cases declining, the government began a phased reopening of the country and a roll-out of economic recovery measures. By the beginning of October, however, a second wave of infection and lockdown was anticipated, particularly in the light of country-wide protests against police brutality, but this did not come to pass, as the total number of confirmed cases by the end of the month remained low at 62,853, with 1,144 fatalities (NCDC 2020a).

For a country with an ailing health-care system, these statistics may look impressive. Yet while some have commended the country's response, others argue that the figures do not bespeak success for reasons such as inadequate reporting and low rates of testing. There is hence no clear picture yet of the state of the pandemic in Nigeria or how effectively it was addressed.

This chapter contributes to an evolving understanding of the situation by examining the multilevel government response to Covid-19 in Nigeria until the end of October 2020. Its key findings are that federalism in Nigeria is dysfunctional, that this had an impact on a coordinated response to the pandemic, and that states and local government are consigned a diminishing role while otherwise having to keep up the pretence of 'façade federalism'.

19.2 The federal constitutional and legislative framework

The Constitution of 1999 delineates the role of each of Nigeria's three tiers of government. The federal government has exclusive powers over issues in the Exclusive Legislative List, while matters in the Concurrent List are shared between it and state government (sections 4(2), (4), (7)); states have exclusive powers over matters in the 'residual list'. Local government authorities (LGAs), or councils, also have powers set out in the Constitution.

While each tier is expected to function independently based on its legislative competence, the federal government's powers have preponderance over the others. For instance, in terms of section 4(5), federal legislation overrides state legislation where there is potential conflict between them. The disequilibrium between state governments and LGAs is more pronounced in that the latter depend on the former for their existence and structure (section 7).

As health care is not in the exclusive or concurrent lists, logically it is a residual matter within the competence of state government (Nwabueze 2014: 380). This inference is fortified by the fact that the Constitution stipulates that the 'provision and maintenance of health services' is one of the functions in which LGAs participate in state governance (Fourth Schedule, section 2(c)). Other health-related LGA services include sanitation and refuse disposal. In the case of health care, then, it is the responsibility of the state government, which is supported in this regard by LGAs.

In the case of disaster management, however, the position is not as straightforward. While the Constitution vests the power to declare a state of emergency in the event of disasters solely in the federal government, the National Emergency Management Agency Act 50 of 1999 (NEMA Act) seems to establish a joint regime comprising both the federal government and states. It is thus arguable that disaster management, unlike health care, is supposed to be their shared responsibility, with the federal government playing the leading role.

Moreover, in the event of a pandemic that can be considered a natural disaster, the federal government can declare a state of emergency 'in the federation or any part thereof' (Constitution, section 305). This is an exclusive power of the President; the governor of a state can only 'request' that the President declare a state of emergency in a state (section 305(4)). The President, though, has overriding powers 'if a State fails within a reasonable time to make a request' (section 305(5)).

Importantly, Nigeria's Constitution, unlike that of many other countries, does not distinguish between a state of national disaster and a state of emergency. In Nigeria, states of emergency have been declared in states several times, for instance in response to terrorism by Boko Haram. States of emergency have not been declared before for health emergencies, however, despite calls for this during the Ebola crisis. As with Covid-19, the government did not consider Ebola a sufficiently 'imminent danger' to warrant such a declaration (Abdulrauf 2020a).

Generally, state governments have powers to 'make laws for the peace, order, and good government of the State' (Constitution, section 4(7)). This means they can make emergency laws as well, so long as it is for the peace, order, and good government of the state and it is within their legislative competence. In case of public health emergencies, state governments can make regulations in the course of exercising emergency powers based on their public health laws. Such emergency regulations may also be justified by federal legislation, in this case by the Quarantine Act of 1926. Although quarantine is a matter within the federal Exclusive Legislative List, the Quarantine Act vests state governors with the powers to make emergency regulations if the federal government fails to do so (Quarantine Act, section 8).

It is on the basis of this legal framework that the Lagos state government issued the Infectious Disease (Emergency Prevention) Regulation 2020 which gave the governor powers, *inter alia*, to restrict movement and close internal borders. LGAs do not have any equivalent powers.

19.3 Preparedness for a national disaster: The institutional framework

The nature of the disaster determines the appropriate institution to respond to it. Generally, the National Emergency Management Agency (NEMA) is the primary agency responsible for disaster management. Established by the NEMA Act, its responsibilities are, among other things, to formulate policies on disaster management and coordinate the relevant plans and programmes. NEMA is an agency under the Federal Ministry of Humanitarian Affairs, Disaster Management and Social Development.

NEMA does not appear to be an intergovernmental body because other tiers of government are not represented in its membership. Moreover, phrasing in the Act suggests its distinctness from equivalent institutions at state level. The Act mandates states to establish a State Emergency Management Committee/Agency (SEMC/A) to 'respond to any disaster within the state' (NEMA Act, section 9(b)), albeit that, to date, only 25 states have SEMAs (Mashi et al. 2019: 8); at the national level, NEMA is only to 'liaise' with the state committees 'to assess and monitor' the distribution of relief material (NEMA Act, section 6).

On this basis, NEMA is, arguably, not established as an intergovernmental body, which means in turn that the federal government is solely responsible for disaster management at federal, or nation-wide, level.

Since Covid-19 is classifiable as a natural disaster, the role of one other agency is noteworthy: the Nigeria Centre for Disease Control (NCDC). It has the responsibility of coordinating the scientific response to epidemics and pandemics, with its main function being 'to lead the preparedness, detection, and response to infectious disease outbreaks and public emergencies' (NCDC 2020b). Formed in 2011, the NCDC first came to prominence during the West African Ebola virus epidemic of 2013–2016.

19.4 Rolling out measures to contain the pandemic

As countries worldwide began taking action to curb the pandemic, Nigeria followed suit with similar measures, chiefly the closure of international borders, restriction of movement, and development of relief interventions. At the federal level, the President introduced them formally in a national address on 30 March 2020. The ruling APC was in full support of the measures, while the PDP took a critical stance, castigating President Buhari's administration for having allowed the virus to get into the country in the first place and blaming this lapse on its 'negligence and laidback attitude to the governance and welfare of Nigerians' (Premium Times 2020). However, what drew the most heated criticism, particularly from opposition parties, was the unilateral way the central government imposed the lockdown on the federated states.

More widely, the diverse character of Nigerian society had an impact on the response to Covid-19. The degree of seriousness with which different regions

took the pandemic varied and largely reflected the North–South divide. In most parts of the North, even the political class treated it with some levity. This was apparent in the initial response in such states as Kano, as well as among the population at large, where levity sometimes turned into violent resistance against the lockdown and social distancing orders. For example, youths in Katsina state (in North–Western Nigeria) set a police station ablaze because its officers, in enforcing these orders, prevented them from attending their mosque.

Similarly, the sense of marginalisation commonly felt by people in poor rural communities was deepened by the government’s response measures. Many of them thought the pandemic was a hoax or a trick the government had pulled off to exploit them; others yet believed the pandemic affects only the rich and powerful, given the number of high-profile individuals who contracted the virus or went on to die of it (Ihonvbere 2020).

19.4.1 Taking the initiative

Initially, there was uncertainty about who should take the lead in responding to the pandemic. A first possible reason for this is that governments at all levels appear to have underestimated its potential harmfulness, so it took some time before they appreciated the magnitude of what was at stake and gave full focus to questions of who should respond and in what way. A second reason related to the conflict of legal frameworks regarding the pandemic. If Covid-19 were considered a natural disaster, it would fall under the NEMA Act and the response be driven by the federal government; however, if it were considered a health matter, it would be within the constitutional competence of state governments, with the support of LGAs.

After Nigeria reported its first confirmed case in February 2020, the federal government constituted the Presidential Task Force on Covid-19 (PTF) only on 9 March, two days before the World Health Organization (WHO) declared Covid-19 a pandemic. The PTF did not take any concrete steps immediately on being established. Since most cases then were imported, the federal government closed all air and land borders on 18 March. Thereafter, cases started to increase exponentially and it became clear that community transmission had set in.

Lagos State, initially the epicentre, witnessed the highest daily increase – unsurprisingly so, given that it is the country’s commercial hub and has one of the busiest international airports in Africa. On 23 March, it also saw Nigeria’s first coronavirus-associated fatality.

Thus, it was that on the following day, 24 March, the government of Lagos State took the first decisive steps in Nigeria towards domestic containment by imposing restrictions on social gatherings and certain businesses with effect from 26 March. The restrictions were formalised on 27 March in the Lagos State Infectious Diseases (Emergency Prevention) Regulation 2020, the essence of which is that it gives the state governor reactive emergency powers to curtail the spread of the virus. The Ekiti state government made a similar regulation.

With these states having got the ball rolling, the federal government awoke from its slumber and began taking charge. In a televised address on 29 March, President Buhari ordered a two-week lockdown of the FCT and the two states with the highest case numbers, responses that were formalised in a regulation of 30 March (Covid-19 Regulation No. 1); the latter was subsequently extended on April 14 (Covid-19 Regulation No. 2). After this intervention by the federal government, all the other states, excepting Kogi and Cross River, imposed restrictions of one form or another between March and May.

In a further address on 27 April 2020, the President announced that from 2 May there would be a 'phased and gradual' easing of lockdown measures in the states with federally decreed lockdowns in place. The other states with state-imposed restrictions followed suit and started to ease their lockdown measures.

19.4.2 Federal government action

As mentioned, the federal government's first formal step was to issue Covid-19 regulations pursuant to the powers of the President under the Quarantine Act of 1926 (sections 2–4). The first regulation, which was for an initial 14-day period, declared Covid-19 'a dangerous infectious disease' and outlined measures for curtailing the effects of the coronavirus. They included the suspension of air travel and restriction of movement in Lagos, Ogun, and the FCT. At the expiration of the term of the regulation, another regulation was made for a 14-day extension (Covid-19 Regulation No. 2 of 2020).

In the course of making these regulations, the President was criticised for intruding in state government with the unilateral declaration of lockdowns in Lagos and Ogun, and, later, Kano. This was said to be unlawful since no state of emergency was in place in terms of the Constitution and the President never provided any clear legal justification when the order was made in his national address – it was only on the day thereafter that the Quarantine Act was invoked to justify his actions. This issue thus touches on the larger conflict between the Quarantine Act, which is still an effective law, and the Constitution.

The army was deployed to provide support in enforcing lockdown orders, especially at the country's borders, but it played a broader role than this. According to an army memo, the army was to forcibly transfer the sick to hospitals and enforce lockdown orders by the President and state governors (TRT World 2020). It also leased equipment to the government for possible mass burials and deployed medical personnel (Punch Healthwise 2020a).

Socio-economic measures were adopted too, especially for the most vulnerable in society. The Ministry for Humanitarian Affairs, Disaster Management, and Social Development pledged to distribute food to vulnerable households. Furthermore, in terms of a conditional cash payments initiative launched in April 2020, NGN 20,000 would be paid to families in the National Social Register of Poor and Vulnerable Households, established in 2016 to combat extreme poverty. As of October, the Social Register contained 4.6 million poor and vulnerable

households – arguably insignificant in a country where an estimated 83 million people, or 40 per cent of the population, live below the poverty line (NBS 2018). With regard to micro, small, and medium enterprises, the Central Bank of Nigeria announced that NGN 50 billion in credit facilities was being made available to support them (CBN 2020).

What is striking about these socio-economic measures is that they were all managed by the federal government and its agencies and that none were sufficient for meeting the needs of Nigeria's teeming population.

Towards the end of April, the pandemic seemed under control and the federal government began a phased reopening of the country under the direction of the PTF and NCDC. Curfews were relaxed and centres of worship reopened, albeit that the latter were still subject to hygiene and social distancing protocols. Airspace was opened to domestic travel on 5 July and international travel on 5 September, with international travellers having to use only two of Nigeria's international airports (Lagos and Abuja). Students in exit classes resumed school on 17 August, while those in other levels were to resume in October.

Since the exigencies of the pandemic called for swift action, executive rule held sway. The President took unilateral decisions without recourse to the legislature, as emergency powers under the Quarantine Act enable him to make regulations and orders without legislative intervention. The National Assembly played only three notable roles during this time. First, it 'advised' the federal government to urgently set aside a special intervention fund to curtail the spread of Covid-19. Secondly, the Senate Committee on Health and Private Healthcare and Communicable Diseases was to continue to engage with the Federal Ministry of Health and the PTF while the legislature was in recess due to the pandemic (Nwachukwu 2020). Thirdly, the House of Representatives (the lower legislative house) passed the Emergency Economic Stimulus Bill 2020 to provide economic relief to businesses and individuals (BKLC 2020).

Neither the legislature nor the judiciary served any substantial accountability function during this period. There were no cases before the courts on constitutional challenges relating to the federal system; as for the legislature, paradoxically, it sought to give the executive greater powers. It wished, in particular, to hurry into law the Infectious Diseases Bill of 2020, which gives the President, Minister of Health and Director-General of the NCDC extensive powers in managing infectious diseases (Abdulrauf 2020a). Controversy around the bill led to a court action – *Sen. Dino Melaye v. The Clerk of the National Assembly of the Federal Republic of Nigeria and 4 Others* – seeking its provisions declared authoritarian, undemocratic, and unconstitutional. In view of an outcry against the bill from state governments, civil society, and others, it was provisionally withdrawn.

The federal government's pandemic response was informed by the decisions and guidance of international organisations. First, it was guided by the Africa Joint Continental Strategy for Covid-19 Outbreak, which was jointly established by the African Union and Africa Centres for Disease Control and Prevention (African Union and Africa CDC 2020). The Director-General of the NCDC was

co-chair of one of the working groups of the Africa Task Force for Coronavirus (AFTCOR), which is the coordinating body of the strategy. Secondly, Nigeria adhered to WHO guidelines on Covid-19. The WHO country representative in Nigeria was an active member of the PTF, which, as mentioned, is the coordinating structure in place for the management of Covid-19 in Nigeria. For its part, the Economic Community of West African States (ECOWAS) merely issued statements and provided updates with which the Nigerian response was already in alignment.

19.4.3 State government action

Given that the federal government monopolised the pandemic response, states had to align themselves with its strategy and directives. This was illustrated by its National Covid-19 Pandemic Multi-Sectoral Response Plan, in terms of which federal agencies were dominant and state agencies assigned only a subsidiary role. The Response Plan ‘directed’ states to establish a Covid-19 Taskforce to be chaired by their governors or the latter’s designates and to establish a State Emergency Operation Centre (EOC) along the same lines as the federal NCDC’s EOC (FG 2020: 20 and 21).

In view of their constitutional competence in health, state governments, with varying degrees of effort, upgraded their health-care facilities and set up isolation centres. With the support of the NCDC, state governments established greater numbers of molecular laboratories in order to scale up virus testing. Lagos State, the epicentre of the pandemic, erected the largest number of isolation centres in the country, an effort that included converting the state sports stadium into an isolation centre.

Within their constitutional spaces, state governors, as chief security officers, put in place and enforced lockdown orders. The latter was tricky in that the only police force is the federal police (Okeke 2020: 5) and, as such, state executives do not have direct control of the police without recourse to the federal government (Elaigwu 2005). Nevertheless, they found the means to work around this constitutional complexity. In the case of states controlled by the ruling party, they tried to ensure a harmonious working relationship with the police; as for states controlled by opposition parties, some established special taskforces to monitor their borders and thereby avoid alleged ‘sabotage’ by the federal police.

Despite the dominance of the federal government, various state governments still found the space in which to assert their autonomy. For example, when the federal government imposed a lockdown in the FCT and states of Lagos and Ogun commencing on 30 March 2020, the governor of Ogun postponed the start of the lockdown by five days to allow residents time to stock up on food and other necessities (Onwubiko 2020). Similarly, the Kano state government eased the centrally imposed lockdown even before its expiration date ‘to enable people to move out and make some purchases’ in preparation for the Muslim Ramadan fast (Mbah 2020).

Generally, however, states willingly complied with the federal government, especially those controlled by the ruling party. Their pandemic responses were, accordingly, crafted along the lines of the federal government's Covid-19 regulations of March and April 2020 and in adherence to the PTF. In expressing support for the federal government's supremacy, the governor of Lagos State mentioned on two occasions that, in regard to the curfew, only the President who declared the curfew can decide on it otherwise. Similarly, when the federal government relaxed restrictions on inter-state travel, the governor of Cross River State said the state had surrendered its sovereignty and duly opened its boundaries as per the federal order (Punch Healthwise 2020b).

Since the states generally aligned their responses with the federal government, few of them felt compelled to devise innovative means to deal with the virus within their constitutionally permitted spaces (Okeke 2020: 6). However, the Lagos state government was creative in regard to contact tracing and adopted a relatively effective house-to-house testing initiative; it also set up testing centres in all LGAs and supported this initiative with an intensive publicity campaign (Ihonvbere 2020). Similarly, the Lagos state legislature went above and beyond other state legislatures by enacting, on 26 March 2020, the Emergency Coronavirus Pandemic Law of 2020, which recommended penalties for defaulters of lockdown regulations and empowered the governor to declare an emergency for up to three months; the governor was also required to consult the legislature before issuing any regulations.

State governments undertook numerous initiatives to ameliorate the social and economic effects of pandemic control. For example, they gradually reversed lockdowns imposed by either themselves or the federal government. Because states had differing ideas about easing, there was no unified approach, albeit that they generally toed the federal line. Some were consequently quick to ease lockdowns, others, slower. The Oyo state government (controlled by the opposition PDP) began easing its lockdown in April even when infections were on the increase – the governor argued that 'the economic health of the state is more important than public health' and that this was in residents' best interests (Feyisipo 2020). Lagos State also began to ease lockdown regulations so as to mitigate economic hardships.

Another common initiative was to provide material relief to vulnerable groups. Lagos State, at the start of the lockdown, announced several poverty-alleviation packages (Shaban 2020). In one of these, it budgeted for 200,000 households – amounting to 1.2 million residents – to receive food rations. In another, it provided unconditional cash transfers to about 250,000 economically challenged persons listed with the Lagos State Residents Registration Agency (LASRRA); further initiatives included a school-feeding programme aimed at feeding more than 37,000 households in which school pupils were living. Other states, such as Kano, had similar initiatives in place (Murtala 2020).

Such efforts were supported by private donations to state governments and by the Coalition against Covid-19 (CACOVID), a private sector partnership with

the federal government. Yet as laudable as they were, it was – to echo similar remarks in the discussion above of federal government action – scarcely conceivable that they could make any significant impact given the size of state populations. There were claims, too, that poverty-alleviation measures were deployed for political and/or corrupt purposes. For instance, in protests in April 2020 in Lagos and the FCT, the contention was that politicians were corruptly diverting relief-measure resources to their party loyalists or into their own pockets (Okon 2020).

There were indeed instances too where states obstructed the implementation of necessary preventative measures. A notorious example is provided by the Kogi state government, which denied the existence of Covid-19 when its governor declared that '[n]inety percent of the noise about Covid-19 is for political, economic, financial [or] material gain. The other 10% [is about] ordinary flu, like the common colds Nigerians generally suffer' (Offiong 2020). The governor went on to refuse to allow testing in the state, threatening to quarantine the PTF delegation sent to Kogi to provide technical support. When two cases were reported, he dismissed them as 'false allocations', all the while rejecting federal intervention; finally, when he had to put in place a state Covid-19 taskforce, he refused to fund it.

Kogi's case was all the more controversial because the state is located in the North-Central region and sits between states with a high number of infections. In a similar episode of state-level obstructionism, the Cross River state governor questioned the need for social distancing and cast doubt on scientific evidence regarding the coronavirus (Offiong 2020).

As at the federal level, the exigencies of the pandemic and need for speed meant that state-level accountability structures were relegated to the sidelines. State executives, like their federal counterpart, unilaterally took decisions where circumstances required. Although state legislative houses were closed in the early stages of the lockdown, they all reopened during its easing. Even so, they mostly played an insignificant role and rubber-stamped the actions of governors. Only in Lagos State was the legislature proactive in monitoring executive action.

It is worth noting, though, that even before the pandemic, state legislatures had long been under the thumb of too-powerful governors. Nor were the courts particularly useful either as accountability mechanisms: there were no cases challenging state government actions. While all state courts were closed for two weeks from 24 March 2020 – and thereafter indefinitely by the Chief Justice of the Federation, raising another concern for Nigeria's federalism – they were subsequently reopened.

The overall response among states was mixed. While most of them willingly followed the federal government, a few attempted to assert their autonomy – some for no good cause. State responses were also indirectly influenced by party-political dynamics, but, all in all, it was the federal government that called the tune and directed state responses.

19.4.4 Local government action

Local governments were not left out in the fight against Covid-19. In terms of the Constitution, LGAs are expected to participate in state matters concerning health services. However, they were not properly harnessed for this purpose, partly because LGA-maintained health care and basic education facilities are the worst in the country and notoriously corrupt (see Isa 2016).

Only in two areas were LGAs commonly used. First, they assisted states in the distribution of material support (mostly food packages), though not without criticism – Ihonvbere (2020) maintains that '[LGA] chairmen ... politicized the distribution by only favouring their political party members'. Secondly, LGAs were deployed to support state governments in conducting public education and awareness-raising campaigns in rural areas.

In Lagos State, LGAs participated more actively and widely in the state government response. They formed part of the state Covid-19 taskforce and were involved in sample-collection surveillance at grass-roots level, but even in this case, it is apparent that their role was merely a supporting one. The fact that 18 LGAs (out of 774) accounted for more than 60 per cent of confirmed cases in Nigeria at the time of this writing indicates that LGAs needed to be engaged substantively in the management of the pandemic.

As matters stood, they were generally underutilised by federal and state government alike. This led to occasions in which the federal government gave policy directions to LGAs directly – for example, the PTF threatened to impose a total lockdown on LGAs with high increases in confirmed cases. The implication is that the federal government was willing to bypass state governments, which are the entities constitutionally mandated to play a supervisory role over LGAs (Constitution, section 7(1)).

State governments generally have not allowed LGAs to flourish, a tendency motivated by the desire to reduce the costs associated with running LGAs. It is thus surprising that whereas the organised voice of this sector – the Association of Local Government of Nigeria (ALGON) – usually fights for the autonomy of LGAs, it was conspicuously silent when it came to Covid-19. Its Delta State branch appeared to be the only one seeking to ensure that the state's LGA chairpersons were united in enforcing social distancing in public schools (Igbekoyi 2020).

19.4.5 Intergovernmental relations

A distinctive feature of federalism in Nigeria is that there is no active structure for intergovernmental relations (IGR) on high-level policy matters (Osaghae 2015). The two constitutionally created IGR forums – the Council of State and the National Economic Council (NEC) – perform only advisory functions. The Council of State mainly advises the President on issues such as appointments and

the prerogative of mercy, while the NEC, as its name indicates, advises on economic matters (Constitution, Third Schedule, Part I).

In terms of their composition, the NEC comprises the Vice President (VP), governors of all the states, and the governor of the Central Bank of Nigeria; the Council of State has a broader membership, including the President, all former presidents, and all governors. Neither forum has representation from LGAs (Ikeanyibe et al. 2019: 1044). The NEC meets monthly to review the nation's economic planning efforts; however, it was only in its meeting in May 2020 that Covid-19 was at the top of the agenda. On that occasion, the NEC set up a committee to advise on the reopening of the Nigerian economy, with its members consisting of a selection of governors and federal ministers. Its advisory role aside, the NEC has had to defer to the PTF when it comes to issues relating to linkages between Covid-19 and economic planning – a consideration that has not made it particularly useful as an IGR platform.

The implication of the foregoing is that the most authoritative body engaged in coordinating multilevel government response to the pandemic is the PTF. The PTF drew its membership from several ministries and parastatals. One of its key objectives is to '[p]rovide a coordinated and effective national and sub-national response to the COVID-19 pandemic', thereby fostering relations between the various levels of government (FG 2020: 6). Apart from its coordinating function, the PTF was also to report directly to the President and give a daily press briefing to members of the public. As crucial as the task of the PTF appears, the extent to which it was able to achieve effective IGR remains questionable for two reasons: state governments (or their taskforces) were not represented on it, and state governments were used only as implementers of federal policies.

The relationship between federal and state government in pandemic management was, overall, a lopsided one. Since the federal government, with the support of the Quarantine Act and Disaster Management Act, exercised overwhelming powers over states, most of them had no option but to quietly fall in line; the powers the federal government wields over public finance are a further instrument for subjugating state governments. So, while it is difficult to assess the relationship between the levels governments, it is probably safe to say that what existed before the pandemic was not improved by it and may well have deteriorated.

The coldness of this relationship is worse where the units of government belong to different political parties – in such case, conflicts abound. Two examples suffice. The first is the case of the governor of Oyo State, an opposition-held state, who, contrary to the PTF's stipulations and the advice of the medical community, organised a political rally on 19 March to spite the federal government and the ruling party (Babatunde 2020).

The second is the conflict between the federal government and the Rivers state government. The latter had imposed a state-wide curfew to curb the spread of the virus; meanwhile, the Federal Minister of Aviation authorised some helicopters to operate in the state, helicopters which violated the curfew.

The government of Rivers State, an opposition-held state, instructed the police to arrest the passengers and crew for violating the state-imposed curfew. In response, the head of the federal police force removed the state's commissioner of police for enforcing a state law (by arresting crew and passengers) against federal orders (Chukwu 2020).

States also cooperated with each other to carry out joint efforts, especially in matters such as border control. For example, in a statement after its monthly meeting of April 2020, the Nigeria Governors' Forum (NGF), an association of all 36 state governors, said, 'Governors unanimously agreed to the implementation of [a two-week] interstate lockdown ... to mitigate the spread of the virus from state to state' (Reuters 2020). They also agreed to set up Covid-19 regional committees comprising state commissioners of health and aimed at fostering a coordinated pandemic response. Significantly, the governors called for the 'decentralization of the Covid-19 response as the best chance of nipping the spread of the virus' (Olaniyi 2020).

What is also notable, though, is that various of the NGF's decisions appear so closely aligned with the imperatives of the federal government and PTF that they verge on the redundant and seem like mere affirmations purporting to suggest the NGF thought of them first. Still, some state governors jointly rejected certain federal measures. For example, the Northern States Governors' Forum came together to reject federal lockdown measures due to their economic impact, holding that each state should adopt an approach suitable to its setting (Abraham 2020).

Initially, the NGF was united as an IGR platform. State governors were unified in interacting with the federal government and among themselves, thereby fostering vertical and horizontal cooperation, respectively. However, once the federal government started allocating funds through its special intervention regime to support states' responses, there seems have been a rift. This was due to the perception that some states, notably Lagos, were treated more favourably than others in being awarded a larger share of funding; the federal government argued that Lagos had invested heavily in pandemic response and warranted it (see below).

19.4.6 Intergovernmental fiscal relations

Managing Covid-19 was an overwhelming fiscal venture in a country where the pandemic's impacts on the economy and public finances placed severe strain both on the federal government and on an already complicated fiscal framework.

Public finance is governed by the Constitution, which stipulates that all revenue raised by the nation is held in a federation account and shared via a formula approved by the National Assembly (Constitution, section 162). In 2020, the sharing formula was (in percentages) 53:27:20 for the federal government, state governments, and LGAs, respectively. However, the pandemic intensified inter-state competition for the federation's overstretched resources.

As a result of Nigeria's heavy reliance on oil revenue and the absence of fiscal autonomy for the regions, state governments generally rely solely on their allocation of 27 per cent – only Lagos, Rivers, and Akwa Ibom states can sustain themselves without federal transfers. In view of the huge infrastructural deficit in their health and related sectors, states had to increase spending in order to cope with Covid-19 – at the same time at which the pandemic's impact on the economy led to a significant downturn in federal transfers. The result is that most states were sliding into bankruptcy, with a collective debt of more than USD 23.6 billion (DMO 2020).

The further result is that, in terms of Nigeria's fiscal federalism, the federal government had to attempt to bail out states. States turned to the federal government, which itself had to resort to taking out further loans to meet the demand – among other things, it sought, and on 28 April 2020 obtained, approval of an emergency International Monetary Fund (IMF) loan of USD 3.4 billion to provide support for states (Transparency International 2020).

The federal government augmented states' financial allocation by way of a Stabilisation Fund of USD 150 million and granted a moratorium on states' debts. Other major support was in the form of a Covid-19 Intervention Fund based on an amendment of the 2020 budget to include a fiscal stimulus of NGN 500 billion (USD 3 billion) (Ejiogu et al. 2020). Funds were allocated to states based on the extent to which they were affected by the pandemic and the amount they had spent on critical infrastructure. By and large, it appeared that there was no specific formula for disbursement, but it was the case that Lagos State, the hardest hit, received the lion's share.

As mentioned, this complicated IGR between federal and state governments, particularly given that the federal government denied Kano State's request for NGN 15 billion, saying it 'needs to be convinced by what it sees on the ground in the state to know how and what to support' (Bello 2020). Conversely, it said it had allocated NGN 10 billion to Lagos State 'only because it was satisfied that the government of Lagos started on the right footing, rolling out proper plans and mobilizing its fund to fight the pandemic' (ibid).

Apart from special intervention funds, the most notable source of finance for the various levels of government was CACOVID. This, as also previously noted, is a private-sector taskforce that partnered with the federal government, NCDC, and WHO to mobilise resources across industries and avail funding as well as technical and operational support – among other things, CACOVID provided medical facilities that included testing, isolation and treatment centres, intensive care units, and molecular testing laboratories. By the end of May 2020, it had raised more than NGN 28 billion of a target of NGN 120 billion. Under this initiative, the federal government was responsible for the distribution of monies to state governments – indeed, the partnership was led by the governor of the Central Bank of Nigeria and the funds were placed in a special account with the same bank.

Managing such large amounts of money will always arouse suspicion, especially in a country with pervasive corruption (Abdulrauf 2020b: 215). Consequently,

two significant efforts were made to guarantee accountability in regard to the sums raised by CACOVID and other federal government interventions. First, the Finance Minister stated that to enhance transparency, the donations would be spent only after appropriation through a supplementary budget of the National Assembly (Moshood 2020). Secondly, the Independent Corrupt Practices and Other Related Offences Commission (ICPC) – one of Nigeria’s anti-corruption agencies – noted that it was monitoring the management of these funds and had commenced auditing the state governments, agencies, and personnel that spent the funds (Moshood 2020).

Nevertheless, various state governments still made strong allegations of federal government’s corruption and discrimination (in favour of the North) in the distribution of these funds.

19.5 Findings and policy implications

The Covid-19 pandemic has presented an opportunity for a holistic assessment of Nigeria’s federal governance system, and in this regard arrived with perverse good timing at the height of clamour in the country for restructuring and questing after true federalism. Originally, federalism in Nigeria served the useful purpose of holding together diverse regions and ethnic groups, but recent events show that there are deeper issues which federalism should address yet which still hang in the balance. Indeed, the nature, structure, and design of Nigeria’s federalism itself is a cause for concern. As Babalola (2019: 157) aptly remarks, ‘the political framework established to “cure” the country’s ills have become part of the illness’.

The handling of the pandemic has exposed the fault lines of Nigeria’s federalism. It has shown that true federalism in Nigeria exists only in theory and that it is consequently not off the mark to refer to the current arrangement as ‘façade federalism’. This term has been used by Wright (1982) to suggest the diminishing status and role of state and local government in a federal system. The more specific findings of the present study are enumerated below.

First, the federal government usurped state governments’ health-care powers and exercised overwhelming control in the management of the pandemic. It used several policies and fiscal strategies to further denude state governments of autonomy.

Secondly, in most cases, state governments did not oppose this and rarely made creative use of their constitutional space: they were comfortable with the master-servant relationship. Those few states that tried to differ from the federal government did not do so to assert their autonomy in the best interests of combating the pandemic but rather for other reasons such as party-political affiliation.

Thirdly, within the narrow sphere of their operations, state governments further subjugated LGAs even though the Constitution grants the latter a supporting role in health matters. LGAs therefore played an insignificant role in responding to the pandemic.

Fourthly, the current fiscal framework in which state governments are heavily dependent on federal allocations has been further cause for states to maintain an inferior position in the federal arrangement.

Fifthly, in the absence of any formal IGR structure, no new IGR structure or practice emerged to help effectively coordinate the multilevel government responses. The Council of State and NEC did not have the formal constitutional powers to take on this role but existed merely as advisory bodies. The PTF that was established to coordinate multilevel responses did not function effectively as an IGR platform – it simply issued policy directions, indirectly through the President and directly to states without engaging with state governments.

Lastly, there was no federal spirit even in the National Assembly, where legislators sought to ensure continued centralisation of powers with the attempted enactment of the Infectious Diseases Act of 2020, which grants the federal executive overwhelming powers over states.

These findings have long-term implications for Nigeria's federalism. Two closing observations may be made in this respect. First, there were no strong voices or movements for greater autonomy and independence between the levels of government. All the previous calls for reforming the federal system fell still in this period, with few stakeholders recognising the potential long-term impact of highly centralised pandemic governance on Nigerian federalism at large. Secondly, and consequently, Nigeria moved ever-faster towards ever-greater centralisation, with the spirit of federalism all the while rapidly declining.

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