

Federalism, Dual Sovereignty, and the Supreme Court of Nigeria

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Abstract : Nigeria became a federation in 1954 six years before it gained independence away from British colonial rule. The country has remained a federation since then despite the challenging circumstances of military rule and civil strife which have tasked its federal credentials. Since 1961, when it first decided a federalism dispute, cases over vertical and horizontal powers have inundated the country's Supreme Court. In its current practice of federalism after democratic rule was resumed in 1999, the country has witnessed a spell of intergovernmental disputes over a good number of federalism issues. Such conflicts have eventually found their way to the Supreme Court for resolution, not as a final appellate court (which it is in other non-federal matters) but as a court of first and final instance following the constitutional provision granting the court such power. However, in April 2014 one of such disputes was denied hearing by the court when it declined original jurisdiction to determine the matter. The suit was instituted by one state of the federation against the federal government and the other 35 states challenging the collection of value added tax (a consumption tax) on certain goods and services within the state. The paper appraises the rationale of the court's decision and reason that its decision to decline jurisdiction is the result of an avoidable misunderstanding of the dual sovereignty instituted by the federal system of Nigeria as well as a misconception of the role which the court is constitutionally assigned to play in resolving intergovernmental schisms in the federal system.

Keywords : dual sovereignty, federalism, intergovernmental conflict, Supreme Court

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