

IS NIGERIA A PREDATORY SOCIETY?: TRACKING GOVERNABILITY, SOCIAL JUSTICE AND CULTURE OF IMPUNITY

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ABSTRACT

The present government in the country was elected into office principally on its anti-corruption and social justice campaign during electioneering. Thus, the expectations of the citizens are very high in respect of these fundamental issues. Employing a combination of historical, descriptive, and interpretative mode of analysis, this study examines the application of the rule of law in Nigeria in relation to social justice and corruption. It also interrogates the enduring culture of impunity in the country.

Key Words: *Governability, Impunity, Social Justice, Predatory Society, Corruption*

Introduction

Almost up until the last colonial moment, southern, northern and eastern Nigeria were administered largely separately. British colonial power tended to favour the northern elite over those of other regions. Nigeria's anti-colonial movement was weak and divided compared with many of its counterparts elsewhere on the continent. All this means that today, most Nigerians' sense of 'Nigerian-ness' can be somewhat flickering and intermittent. There are many genuine instances of widespread patriotic pride – for example, whenever the national football team, the 'Super Eagles', takes the field – but Nigerian national identity has no automatic privilege over ethnic, religious or regional identities (House of Commons Library, 2015:15).

The four objectives or obligations expected of Nigeria to its society namely, security, justice, liberty and welfare are strongly related or even interdependent. Unfortunately, Nigeria has

demonstrated to be very weak and one sided in favour of the privileged few. In fact, the major shortcomings of Nigeria justifies the Marxist perception of a state as an organ of class rule, an organ of the oppression of one class by another (Nnoli, 1986:28). This predatory national character plays out politically in a country that is not wholly a country -- Nigeria is an assemblage of several British-ruled territories: specifically a Muslim north that the British governed indirectly through traditional rulers and a non-Muslim south that the British ruled directly. The tension between the different parts of Nigeria has dominated political life for decades, leading to coups and counter-coups and significant periods of democracy characterized by exceedingly high levels of corruption, which is, in turn, part of the spoils system that staves off civil war. For Nigerian politics at the highest levels is as predatory as life on the street (Kaplan and Schroeder, 2013).

It is observed by Anele (2010) that the civil war and repeated military interventions in political leadership adversely affected the quality of politics and politicians in Nigeria. Indeed, military coups were disastrous for the political development of Nigeria, because they distorted the evolution of democratic values and consolidated pernicious unitarism, authoritarianism and the culture of impunity, arbitrariness and corruption in governance. Thus, employing a combination of historical, descriptive, and interpretative mode of analysis, this study examines the application of the rule of law in Nigeria in relation to social justice and corruption. It also interrogates the enduring culture of impunity in the country.

Nigeria: A Brief Reflection

There are essentially three geographical parts to Nigeria: a Muslim-dominated north of desert and semi-desert, which produces the Hausa officers' corps that for decades has dominated the military and, by association, politics for significant periods; a southwestern region dominated by the Yoruba people, which contains the commercial capital of Lagos; and the southeast where much of the oil is located, dominated by the Igbo tribe (Kaplan and Schroeder, 2013). Nigeria, according to Young (1996), has little cultural logic; its peoples would never have chosen to live together. Over time, though, coexistence became a historical necessity, and citizens came to accept their common nationhood. Nigeria is an artifact of the colonial partition. But if Nigeria began as an imagined community, it became real enough through shared subjugation and resistance to coerced

consolidation, a process eloquently described in James Coleman's 1958 classic, *Nigeria: Background to Nationalism* (ibid).

Nigeria's political development has always been punctured by governance crisis and corruption at all strata of the society. There is thus a disconnection between the governed and the government. As comprehensively enunciated by Alemika (2004:1-2): some manifestations of the crisis of the state and governance in the country are (a) inability to guarantee a basic minimum standard of living that accord with human dignity for the majority of the citizens... (b) lingering conditions of political instability, repression and violence; (c) widespread petty and grand corruption; (d) economic decline resulting in capacity under-utilisation, structural distortion..., huge debt burden; (e) very high unemployment rate, especially among young people .. (f) deterioration of socio-economic infrastructure...; (g) widening inequality among individuals and between rural and urban communities; (h) insecurity of life and property due to violent crimes and socio-political violence engendered by competition over resources, and (i) deterioration of the social services- particularly education and health care, which has been made worse by structural adjustment programmes implemented by successive governments since 1986. As aptly captured by El-Rufai (2013):

Social and economic inequality manifesting in conspicuous consumption by a few, side by side with the poverty of the many, exacerbated by infrastructure deficits and dysfunctional schools and healthcare all over the country have led to deep feelings of injustice and hopelessness among our youths. Lack of opportunity, shameless corruption and a capricious political culture have destroyed institutions and entrenched a climate of impunity. Add these together and the cocktail that results is unprecedented insecurity and an attitude of self-help by citizens.

The wealth is reaching only a small minority. In the first place there are the few rich families, who helped themselves to the petrol trade when it was privatized. Then there are the politicians, closely connected to the former, who switch between the two big parties as required, and help themselves generously to the state budget – Nigeria is one of the most corrupt countries in the world (and has the highest salaries for members of parliament anywhere: a senator earns about one million US dollar a year). And of course there are the international oil companies, which control oil production, who also profit hugely from the black gold (Pato, 2014).

This situation of anomie has continued to give serious concern to many Nigerians as Kukah (2012:36) rhetorically puts it: how do we explain the fact that after over 50 years, we are unable to generate and distribute electricity, supply water to our people, reverse the ugly and avoidably high

infant mortality, set up and run an effective educational system, agree on rules of engagement of getting into power, reverse the cycle of violence that attends our elections, contain corruption, instil national discipline and create a more humane and caring society?

In 2014, Nigeria was rated one of the worst governed countries in Africa based on the 2014 Ibrahim Index of African Governance [IIAG]. In the report, Nigeria is rated 45.8 per cent lower than the African average (51.5 per cent) and ranked 37th out of 52 in the overall governance scale (Premium Times, 2014). Nigeria also received appalling ratings in such categories such as safety and the rule of law where it is rated 44th with 38.1 per cent, 32nd in the rule of law with 41.0 percent and 30th in accountability with 36.6 percent. The country got its lowest rating in personal safety where it is ranked 49th with 16.5 per cent and second lowest in national security where it is ranked 48th with 58.2 per cent. Under participation and human rights, the country is rated 26th with 46.9 per cent, 31th on sustainable economic opportunity with 43.3 per cent and 34th in human development with 53.0 per cent (ibid). The unemployment rate in the country is on the rise, public amenities are grossly inadequate, and the cost of living is high but the standard of living is low. Nigeria—popularly called the giant of Africa—is a shadow of itself with Nigerians increasingly seeing fewer reasons to believe in their country (Ilo, 2013).

Nigeria is Africa's largest economy and has experienced fast growth over the past 15 years. A large proportion of the population has not seen the benefits of this growth, with high rates of poverty, particularly in rural areas (House of Commons Library, 2015:24). While the nation's statistics bureau announced in 2014 that the economy had replaced South Africa as the biggest on the continent, development economists argued that their attention should be focused on improving the health, education and incomes of ordinary Nigerians, many of whom are struggling to feed their families (Cocks, 2014). Today, most Nigerians live in abject poverty; in fact, poverty is one of the few things most Nigerians share. Moreover, the gap between rich and poor has grown dramatically, in particular as the corrupt political elite has siphoned off public funds to support its lavish life-style.

Thus, for too many Nigerians, as observed by Kaplan and Schroeder (2013), life is a Hobbesian, zero-sum game that adds up to an aggressive, predatory system of survival of the fittest. Nigeria is

a place where life is too often a matter of who can intimidate whom. Indeed, war, crime and thuggery are the province of young males, and Nigeria's population is composed of many of them. It is obvious that poverty and human rights violations have become rampant in Nigeria due to pervasive corruption and impunity among those who exercise public powers. Ordinary Nigerians consequently suffer severe deprivations of both economic and civil rights. Suffice it to say that the Nigerian government's toleration of criminal acts has created a permissive environment for continued armed violence, leading to a culture of impunity (USCIRF, 2013:10).

Instead of turning away from oil-dependency, huge investments are being made in oil-based power plants and a "gas city" in Yenagoa. Instead of a conversion of the transport infrastructure to mass transit systems, most investment is going into building highways. And the agricultural sector, which in former times guaranteed the country's self-sufficiency, is increasingly dominated by plantation agriculture and sold out to international land ventures. More than 60% of Nigeria's food now has to be imported from abroad (Pato, 2014). Many barriers remain to transforming the political and socioeconomic system in Nigeria. To start, the country's rather weak civil society and its limited experience with democracy and the rule of law have hindered and slowed down the stabilization and expansion of democratic transformation. The low level of economic and social development, widespread grinding poverty, a precariously high unemployment rate among the youths, youth violence, endemic corruption, inefficient state administration, significant ethnic and social heterogeneity, organized crime and a threatening security situation in several parts of the country all increase the level of difficulty of transformation (BTI, 2014:19).

More recently, religion, ethnicity and politics have an interface in the new Nigerian culture of impunity. Indeed, the fastest means by faceless groups to even scores is now by adopting the Al-Qaeda technique of use of explosives to maim, kill, and destroy, more so when certain neo-Jihadists in the north had claimed affiliation to the gang led by Osama (Folarin, 2012). In fact, it is contended that the Boko Haram insurgency is an offshoot of inequity, as political domination in every sphere of the economy leads to ethnic struggles among the citizenry to gain from the nation's resources. The militant group espouses an extreme and violent interpretation of Islam,

benefits from this culture of impunity and lawlessness as it exploits Muslim-Christian tensions to destabilize Nigeria.

A Theoretical Overview of Governability, Social Justice and Predatory Society

According to Frederickson and Smith (2003), “Governance refers to the lateral and inter-institutional relations in administration in the context of the decline of sovereignty, the decreasing importance of jurisdictional borders and a general institutional fragmentation”. Frederickson and Smith assert further that, with more emphasis on governance, the administrative state is now less bureaucratic, less hierarchical and less reliant on central authority to mandate action. Accountability for conducting the public’s business is increasingly about performance rather than discharging a specific policy goal with the confines of the law.

Governability is a concept borrowed from the hard sciences by the social sciences to refer to “governableness,” which can be defined as the quality of being governable, that is, capable of being controlled or managed. Arising during the economic crisis of the mid-1970s in North America, Western Europe, and Japan, the question of modern industrial societies' governability has gradually given rise to further thought on the working-out of new policy-making devices in a globalized space. In this way, governance and its mechanisms, which are derived from new public management, appear to be a response to the governability crisis that confronts contemporary societies at a world level (See Encyclopedia of Governance, 2007<http://knowledge.sagepub.com/view/governance/n219.xml>). The concept of governability does not conjure up any vision of an ideal ‘end state’ or promise of permanent solutions to vexing global problems. Instead, this idea supports the pursuit of minimum conditions for the sake of maintaining order. As such, although governability does not guarantee ‘good governance’, it does place importance on the cultivation of popular legitimacy on the part of a regime or leader, with the former considered a crucial component to a government’s capacity to govern.

Governability requires sufficient concentration and autonomy of power to choose and implement policies with energy and dispatch. This generally conflicts with the need to hold power accountable to popular scrutiny, representation, and control. In some respects, however, vigorous public accountability may strengthen the capacity to govern and the effectiveness of government.

This is most clearly seen with regard to political corruption (Diamond, 1990:53). Statism exacerbates corruption by giving public officials numerous opportunities to collect rents from the state's regulatory activities. But opportunities for corruption are perennial features of public life everywhere. The only remedy is accountability, which requires a free press willing and able to expose corruption; an organized citizenry ready to monitor the political process and the conduct of public officials; and an assertive, independent legal system equipped to prosecute and punish official misconduct. These are at least some of the ways in which accountability serves governability. They involve limiting the power of the state, and especially the executive, in order to prevent abuses. But there are trade-offs, for if power is too limited or too diffused, government may be hamstrung (ibid:54).

In every society, throughout history, those who have administered the criminal justice system have held power with the potential for abuse and tyranny. In the name of the state, individuals have been imprisoned, had their property confiscated, have been tortured, exiled, and executed without legal justification and often without formal charges ever being brought (Konrad-Adenauer-Stiftung, 2011:21). At times states pursue extraction so recklessly that they inadvertently destroy the productive capacity of the private sector. Such states have been labeled predatory or kleptocratic. Though the terms are not very precise and it is difficult to pin down which states fall into this category, state predation is said to exist when the rulers ignore long-term efforts to build a well-functioning state based on economic development and social equity, and state institutions are given over almost exclusively to maximizing the ruler's stake and ability to payoff supporters. Government squeezes the formal economic sector and drives legitimate business activities underground as investors try to minimize the possibility of expropriation. Capital outflows erode the ability of the economy to generate surpluses, which encourages deeper exploitation of the country's productive assets. Eventually the patronage networks may fragment as state resources decline and the ruler loses control of the once-loyal local strongmen (Brinkerhoff and Goldsmith, 2002:17).

The term 'predatory' invokes a metaphor of predator and prey: in such states, "those who control the state apparatus seem to plunder without any more regard for the welfare of the citizenry than a predator has for the welfare of its prey" (Evans, 1989, cited in Bavister-Gould, 2011:6). Nor do

predatory rulers show any signs of long-term developmental aims. Predation is a phenomenon most frequently identified in post-colonial states. In several African countries in the '80s and '90s – Nigeria, Sierra Leone, Zaire and Liberia, for example – a combination of political decay, negative growth and ethnic and regional competition for the state's resources were said to be closely associated with a predatory state (Nafziger and Auvinen, 2000, cited in Bavister-Gould, 2011:6).

The predator state is “a system where entire sectors have been built up to feast upon public systems built originally for public purposes” (Galbraith, 2008:146). In his analysis of what he refers to as a predatory society, which aptly reflects the Nigerian society, Diamond (2001:12) asserts that the predatory society cannot sustain democracy, for sustainable democracy requires constitutionalism and respect for law. Neither can it generate sustainable economic growth, for that requires actors with financial capital to invest in productive activity. He explains further:

In the predatory society, people do not get rich through productive activity and honest risk-taking. They get rich by manipulating power and privilege, by stealing from the state, exploiting the weak, and shirking the law. Political actors in the predatory society will use any means and break any rules in the quest for power and wealth. Politicians in the predatory society bribe electoral officials, beat up opposition campaigners, and assassinate opposing candidates. Presidents silence criticism and eliminate their opponents by legal manipulation, arrest, or murder. Ministers worry first about the rents they can collect and only second about whether the equipment they are purchasing or the contract they are signing has any value for the public. Legislators collect bribes to vote for bills. Military officers order weapons on the basis of how large the kickback will be. Ordinary soldiers and policemen extort rather than defend the public. In the predatory society, the line between the police and the criminals is a thin one, and may not exist at all. In fact, in the predatory society, institutions are a façade. The police do not enforce the law. Judges do not decide the law. Customs officials do not inspect the goods. Manufacturers do not produce, bankers do not invest, borrowers do not repay, and contracts do not get enforced.

In defining the predatory state, analysts have often looked to the role of the predatory leader as a central feature. For most analysts, the predatory leader operates in a particularly brutal and often destructive way in order to secure and maintain wealth and power, and will do so with a combination of ruthless coercion, material inducement to key elites and the employment of personality politics (Nafziger and Auvinen, 2000: 111).

According to Augustus Kakanowski and Marijus Narusevich, (cited in Obanubi, 2015), “social justice is a society in which justice is achieved in every aspect of society, rather than merely the administration of law”. It is generally both the promoter and the outcome of a world in which

individuals and groups receive fair treatment and an impartial share and equal distribution of the benefits and goods within a society. In conditions of social justice, people are "not to be discriminated against, nor their welfare and well-being constrained or prejudiced on the basis of gender, sexuality, religion, political affiliations, age, race, belief, disability, location, social class, socioeconomic circumstances, or other characteristic of background or group membership" (ibid). However, Obanubi contends that achieving social justice requires more than an official recognition of the poor's needs. It has to include civil society and strengthen an accountable people's movement that is able to renegotiate the relationship between society and the state. Social justice, according to Esiemokhai (2010), is the life-wire of societal harmony because equity, fairness and peaceful living will remain the strong foundation of such a society.

In Nigeria, the growing inequality is evident and escalating. If ever there was a trigger for social unrest, it would be to allow this gap to continue to widen (El-Rufai, 2013). For instance, every year in Nigeria, the Police Force (NPF) is behind hundreds of extrajudicial executions and other unlawful killings, as well as cases of torture and enforced disappearances, with some brutalities perpetrated in the context of mass demonstrations. However, several cases go unreported, uninvestigated and unpunished, and victims and their families seldom have recourse to justice or redress (Amnesty International cited in CGHR, 2014:39). Even on the rare occasions when investigations are undertaken, these seldom comply with international standards, and perpetrators are rarely prosecuted, but simply sent for training or transferred. According to Amnesty International, the unlawful killings are not random, with those unable to pay bribes at greater risk of being shot or tortured to death by police (ibid: 40).

Corruption and Culture of Impunity in Nigeria

The Nigerian state is characterized by a high level of corruption and a general disregard for the welfare of the citizenry by those in governance (Human Development Initiatives, 2014:7). Indeed, oil wealth in our Country has been associated with pervasive and entrenched corruption, profligacy, macroeconomic instability, neglect of agriculture and manufacturing, environmental degradation and resource control "wars" (Odozi, 2014). Although corruption in Nigerian politics

had colonial antecedents and became apparent soon after independence, in the early years the sums involved were modest and the practitioners less brazen (Young, 1996).

Since the inauguration of the fourth republic, all attempts to tackle corruption in the country have failed for many reasons. First, politics is openly deemed the best way to become rich (before any political agenda whatsoever). Second, and as a consequence of this, there is no true political will to fight corruption. On the contrary this would affect politicians' businesses. Third, the great ethnic diversity in Nigeria contributes to the lack of national cohesion and opposition to the problem of corruption (See more at: <http://www.poverties.org/poverty-in-nigeria.html#sthash.zCsGLqgX.dpuf>).

Corruption and rent-seeking have seeped so deeply into the culture that everyone expects public officials will use their power for private gain, and there is great pressure on them from clients and kin to do so (Diamond, 2002). A former World Bank vice president for Africa, Obiageli Ezekwesili averred that over 80 per cent of the nation's oil money ended up in the hands of only one per cent of the population (The Nation, 2012:10). For instance, apart from the loss of over N2 trillion to the fuel subsidy scam in 2011, the Auditor-General of the Federation disclosed that N4.2 trillion collected by MDAs was not remitted to the Federation account from 2006 to 2009.

In its various forms, corruption results in the malfunctioning of the economic system which obviously results in such things as increased national debt, failed development projects and increased poverty of the people. The exploitation of the nation's oil resources, and the management of oil windfalls, have dominated the progress and decline of Nigeria's economy over the past two decades, and have significantly influenced evolution and perception of poverty. In fact, Nigeria is one of the top five countries that have the largest number of poor. Nigeria, according to the World Bank President, Jim Yong Kim, ranked third in the world while India ranked number one with 33 per cent of the world poor. China is ranked second with 13 per cent of the world's poor, followed by Nigeria where seven per cent of the world poor lives in. (See more at: <http://www.vanguardngr.com/2014> cited in Omilusi, 2015:56-57).

Happenings in Nigeria's political economy, from fuel subsidy fiasco, to pension scam, purchase of Bullet Proof vehicles and the alleged non remittance of substantial oil revenue by the Nigeria National Petroleum Company (NNPC) to federation account, are clear vindication of a 'captured state', which apparently translate into a wide gap in state-society relations. The implication of this is the emergence of various 'counter movements' expressed religious, social or ethnic form so as to contest the state primitive accumulation (Abdulra'uf, 2014).

For the purpose of clarification, the term culture of impunity refers to a situation in which people in society have come to believe that they can do whatever they want with impunity, which means "exemption from punishment, harm or recrimination" (Rooney, 1999 cited in Ekanem, 2012:51). Impunity therefore, means 'without punishment'. That is, no sanction for bad behavior, no punishment for misdeeds. Impunity can thus be likened to an unmitigated and an uncontrolled emancipation, freewill and free choice (Human Development Initiatives, 2014:5). It also means freedom or exemption or immunity from unpleasant consequences. In other words, impunity breeds disorder, and without order, no society can prosper. Indeed, some commentators have opined that the responsibility of government is not restricted to fostering growth, as has become the mantra of national leadership; but more importantly, to establish order from which all other things flow (Ojo, 2015). Impunity also manifests in blatant acts of corruption, bad governance and human rights abuse by public officials.

In Nigeria, government officials and state security members at all levels continue to commit serious abuses, including disappearances and even killings. In many cases, perpetrators are acting on their own account against alleged offenders, without any direction, control or sanction by government officials at the national, regional or local levels. The Nigerian reality remains widely poisoned by a climate of arbitrariness, corruption and impunity (CDD, 2007:8). Yet, the political leadership, over decades, has failed to address these fundamental challenges just as the gap between the governing elite and the masses continue to expand. In the words of El-Rufai (2013), Nigerian masses have been successfully divided by the elites along ethnic, religious and regional lines. This chasm has been so deep and successful that it is impossible to have any sensible

discussion with most people in Nigeria about any issue without the intervention of these evil lenses. He observes further:

In Nigeria, our elites have forgotten that, and not only is the gap between the classes growing wider, it seems that the country now has two economies – one for the majority that have to scrounge just to put food on the table, and an exclusive economy for the less than 1% of the population that comprise public servants and their hangers on who live in a different Nigeria – of private jets, exclusive estates, international schools, German healthcare at public expense, dedicated water supply systems, private security guards and imported champagne.

Occupants of public offices in Nigeria, see their tenure as an avenue for personal aggrandizement and as a means of getting their own share of the national cake. Thus, they steal from the public treasury with reckless abandon (Human Development Initiatives, 2014:6). This trend threatens the integrity of the judiciary and the protection of individual rights in the country. The executive controls the police and it is the police that enforce court judgment in Nigeria. The dependence of the judiciary on the executive for the enforcement of judgment allows the executive leeway to flout court rulings. The public and interest groups do not have a powerful and coordinated voice that can compel adherence to court rulings by the executive. Requirements of due process are not adhered to and the court is not in a position to enforce its judgment assuming such a case comes before the court. The complexities of Nigerian political environment have made it difficult to ensure the protection of the rule of law (Lawal-Rabana, 2007).

For the Nigerian political (ruling) class, the state is nothing but an instrument of accumulation. This informs its centrality as the locus of struggle for material resources for personal advancement and class security (Gilbert and Barigbon 2015:117). Since the formation of States in human socio-cultural development, all other forms of power have almost always been subordinated to political power and are controlled by it. This explains the attractiveness of political power and why, in a morally decadent society like Nigeria, politicians are willing to acquire state power through any means (Anele, 2010). The character of the State in Nigeria rules out a politics of moderation and mandates a politics of lawlessness and extremism because the very nature of the State and the perquisites of office make the capture of State power irresistibly attractive. As noted by Ake (2000:91) where attempts are made to seek development, policies tend to be hampered by social

and political contradictions such as the divorce of public policy from social needs. The lawless struggle for power by those who control the state against other interests leads to endemic political instability which has been highly detrimental to economic development.

Impunity is what makes citizens and government's officials to flout traffic rules, endanger fellow citizens, arrogate power to themselves, steal public funds, silence their conscience and evade justice. It is impunity that makes Nigerians to refuse to do their jobs without retribution. It breeds patronage, makes people to demand for bribes for the performance of official duties and to inflate government budgets without commensurate performance. Impunity is what is responsible for the many abandoned projects that would otherwise have benefited Nigerians. It is what causes widespread corruption, electoral hooliganism, theft of crude oil and vandalism of pipelines. It makes security officers to extort money from the public without fear, causes executive high handedness, nepotism, perverse political climate, godfatherism, political infiltration of anti-graft agencies, rule of the rich, military hangover and scapegoatism. In fact, the list is endless (HDI, 2014:1-2).

In response to religion-related violence, federal and state officials have formed commissions of inquiry to review the causes of the violence and make recommendations to prevent further violence. More than a dozen such commissions have been formed since 1999, and they often make the same recommendations to federal and state officials. These recommendations include: arresting and prosecuting perpetrators; better training of police forces to respond to violence; improving and increasing inter-faith dialogues; repealing "indigeneship" provisions in the constitution, which grant preferences to ethnic groups considered native to an area; ending discrimination based on religion in the building of houses of worship; monitoring religious institutions for religious hate speech and incitement to violence and removing outdoor speakers from religious institutions where such sentiments are aired; and improving early warning systems and procedures. However, these recommendations are rarely implemented, and these commissions often fault the government for failing to implement the recommendations put forth by previous such commissions (USCIRF, 2013:5).

Application of the Rule of Law: The Human and Institutional Hindrances

The rule of law or the principle that refers especially to government under law and to an unending search for reasonableness as law's most basic norm is the cornerstone of constitutional democracy. It ensures that the state, or a set of institutions that possess the means of legitimate coercion, exercised over a defined territory and its population, exercises its power in a reasonable and not an arbitrary fashion (Falana, 2007). A functioning law and justice system is essential for protecting civilians, maintaining social order, establishing predictable norms and rules, protecting private property, and ensuring clear proscription and sanctions (UNDP, 2012:56). It has been noted that governance institutions should be efficient and effective in carrying out their functions, responsive to the needs of people, facilitative and enabling rather than controlling, and operate according to the rule of law. These institutions should be tolerant of diverse perspectives, provide equitable access to opportunities and be service-oriented (<http://magnet.undp.org/Docs/!UN98->).

The evidence of Nigerian problem, which is in the non-implementation of a functional rule of law, could be seen in the disregard and manipulation of the national constitution; election and electioneering fraud; abuse of political power; legal and judicial perversions; low regard for the electorate among others. All these emanate from lack of respect for the rule of law in the society (Olatunji, 2012). It has been established that the rule of law consists of a set of institutions, laws and practices that are established to prevent the arbitrary exercise of power. However, these institutions and processes do not always contribute to the protection of human rights. They may be plagued by corruption and lack independence from politicians, thus failing to prevent the arbitrary exercise of power. They may also lack the necessary capacity, including skills and awareness of human rights principles, to perform their duties appropriately (UN, 2007:45).

It has been observed that Nigeria's judiciary suffers from poor administrative capacities and external influence through corruption, among other issues, especially in the courts of lower jurisdiction. Transformation deficiencies exist in controlling and designating jurisdictional boundaries between three completely different legal systems, secular state law, Islamic law and customary law. Numerous conflicts have emerged between secular state law and customary law, especially with regard to family law and land lease issues (BTI, 2012:7). In countries where

corruption is pervasive in the administration of justice, the implementation of a country's laws as well as efforts to reform them are impeded by corrupt judges, lawyers, prosecutors, police officers, investigators and auditors. Falana (2013) submits that a criminal justice system which railroads the poor to jail and excludes the rich from prosecution cannot last for too long. Under the current political dispensation, public officers and rich private individuals are above the law.

Such practices compromise the right to equality before the law and the right to a fair trial. They especially undermine the poor's access to justice, because they cannot afford to offer or promise bribes. Importantly, corruption contributes to a culture of impunity, since illegal actions are not consistently punished and laws are not consistently upheld. Corruption causes a reduction in quality of goods and services available to the public, as some companies could cut corners to increase profit margins. Corruption affects investment, economic growth, and government expenditure choices; it also reduces private investment (Mauro 1997).

Over the years, various laws, regulations and guidelines have been enacted or published to enhance governance in both the public and private sectors in Nigeria. The relevant legislations include: the Nigerian Constitution; the Fiscal Responsibility Act; Public Procurement (Due Process) Act; the Nigeria Extractive Industries Initiative; the Anti-Money Laundering Act; the Companies and Allied Matters Act; and the CBN and SEC Corporate Governance Codes. Furthermore, numerous agencies have been established to implement or enforce the far-reaching provisions of these laws and regulations (Odozi, 2014). As argued by Obiagwu and Olumide (2012:10): "even as the debate rages and the country comes to term with the need to curb corruption, many would argue that in every circumstance, the rule of law must be respected. The process of apprehending even those who have defrauded the country will be defeated if the institutions constitutionally empowered to do that are compromised. When the institutions are encumbered with the devices of the individuals, caught within the limitations of their tenures, the country eventually suffers".

Concluding Remarks

It has been asserted that good governance and accountability are principles whose application is essential to a country achieving genuine democracy and development. Good Governance brings along respect of human rights, the rule of law, effective people's participation in development, as

well as transparent and accountable processes and institutions (Konrad-Adenauer-Stiftung, 2011:v). Fundamentally, the rule of law, transparency and accountability in government serve not only as means to counter corruption but also as fundamental conditions of good governance. When political will is shaped by, and harnessed from, the will of the people - all can truly share the dividends of freedom and prosperity. Inclusive and participatory governance by citizens along with, for example, an independent media, can provide strong checks and balances critical to institutionalize government accountability (Falana, 2007).

As suggested by the former World Bank President, Robert Zoellick (2007 cited in Omilusi, 2015:53) developing countries need to improve governance and accountability, but developed countries should also stop providing a safe haven for stolen proceeds. There should be no safe haven for those who steal from the poor. Helping developing countries recover the stolen money will be key to fund social programs and put corrupt leaders on notice that they will not escape the law. Falana (2007) suggests that:

It is absolutely important that the government should invoke national and international laws and institutions in the fight against corruption in a consistent and fair manner. However, without cooperation with other countries to recapture and repatriate Nigeria's stolen wealth and resources, we will continue to witness half-measured and rhetorical commitment in the fight against corruption. Impunity of perpetrators will be the end result. Upholding the rule of law means total commitment to increased transparency and accountability in government, and to the fight against corruption

Equality before the law is a major driver of development and impunity prevention. This is why it is commonly expected the law must be blind to status, creed, tribes, class and every other sentiment. Once humans are no longer seen as equal in the justice system, a fundamental problem of impunity and underdevelopment develops (Human Development Initiatives, 2014:38). The rule of law protects fundamental political, social, and economic rights and defends the citizen from the threats of tyranny and lawlessness. Democratic governments exercise authority by way of the law and are themselves subject to the law's constraints (Konrad-Adenauer-Stiftung, 2011:20).

Also, independent and impartial administration of justice contributes to strengthen constitutional norms and rule of law in the society. An efficient judiciary contributes towards strengthening the state institutions and promoting good governance. This is possible only when state organs and institutions perform functions by remaining within their allotted spheres. Musa (2013) contends

that no combat against crime, corruption and other social vices plaguing the country can either be credible or complete unless at the end of the day there is in place an independent, effective, and robust judicial system to count on. A properly administered judicial system capable of guaranteeing individual rights and freedoms, protecting victims from the arbitrary exercise of power, and punishing criminal offenders; is an essential catalyst for good governance and uplifting of the socio-economic wellbeing of Nigeria and her citizens

Rule of Law is the hallmark of democracy. For democracy to survive and deliver development, the rule of law must be well entrenched, such that the law is supreme. This is only when impunity can be prevented and be sustainably tackled. Also, for democracy to triumph, Diamond (2008) asserts that the natural predatory tendencies of rulers must be restrained by rigorous rules and impartial institutions. Some fundamental innovations are necessary to transform closed, predatory societies into open, democratic ones. Citizens must build links across ethnic and regional divides to challenge elitist hierarchies and rule by strongmen. According to Diamond, this requires dense, vigorous civil societies, with independent organizations, mass media, and think tanks, as well as other networks that can foster civic norms, pursue the public interest, raise citizen consciousness, break the bonds of clientelism, scrutinize government conduct, and lobby for good-governance reforms. States must also build effective institutions in order to constrain the nearly unlimited discretion that predatory rulers enjoy, subject those rulers' decisions and transactions to public scrutiny, and hold them accountable before the law.

Governance is about creating safe spaces where citizens can thrive and achieve their goals. This requires a clear vision about a world with limitless frontiers where individuals can thrive with government creating the necessary support structures (Kukah, 2015). Governance reforms which often emphasize public goods, such as efficiency, honesty, cultural empathy, and the like, to the exclusion of private benefits have been suggested as a panacea to some of the identified challenges in this essay. According to Johnston (n.d:11), so essential are sustained efforts to educate the public about key problems, the justification for proposed changes, the costs of better governance, and actual results. Public education can also change citizens' conduct by encouraging them to

resist exploitation by officials or by other citizens, to file useful reports of problems, and to obey new laws and procedures.

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