

GOOD GOVERNANCE AND DEMOCRACY IN THE NIGERIAN POLITICAL  
SETTING DR. MUIZ ADEYEMI BANIRE, SAN, PAPER PRESENTED ON  
THE 29TH DAY OF DECEMBER, 2017 AT OLUSEGUN OWOADE'S  
BIRTHDAY AT IBADAN.

*“...And every man, every woman who has to take up the service of government, must ask themselves two questions: ‘Do I love my people in order to serve them better? Am I humble and do I listen to everybody, to diverse opinions in order to choose the best path.’ If you don’t ask those questions, your governance will not be good. The man or woman who governs - who loves his people is a humble man or woman.”<sup>1</sup>*

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**PART I**  
**INTRODUCTION**

Let me start by congratulating my friend and associate, Mr Olusegun Owoade on his Golden Jubilee birthday anniversary, May the Good Lord continue to abide with you as you sojourn ahead in enjoying the next Golden Jubilee. I also appreciate you for providing this platform to share my thoughts on a seemingly intractable issue in our polity. It is equally my pleasure to be requested to deliver this lecture amongst several much more capable scholars that are in abundance in this citadel of learning. One of the rationale for declaring pleasure in this

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<sup>1</sup> See the National Catholic Reporter: Prayer, love, humility essential in politics, Pope Francis says (September 16, 2013) <<https://www.ncronline.org/blogs/francis-chronicles/prayer-love-humility-essential-politics-pope-francis-says>> last visited December 12, 2017

activity is not simply because I love public discourse but due to the present situation of things in our country which calls for a sober reflection amongst all of us in our different capacities as leaders, on one hand, and followers, on the other. It is a sad commentary on our affairs that our role as leaders in this generation has been a terrible source of worry. In consequence, those who should emulate our ways of life for the betterment of tomorrow have denigrated our profession of faith in the survival of Nigeria. They have justifiably concluded that we cannot will what we do not have.

For this wonderful opportunity to once again steer the hornet's nest, may I express my appreciation to all of us here gathered. As littluns<sup>2</sup> in years gone by, we were compelled to attend school to acquire Western education. Today, we are proud leaders of our society with immense pride in the past. That is why our commitment to the survival of the coming generations must be examined in the context of the prevalence of today's reality and the questions that tomorrow poses for us to answer.

Before venturing into the full purport of my discourse, and since the topic delves on good governance and accountability, it is desirable to introduce the subject.

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<sup>2</sup> Apology to William Golding in *Lord of the Flies*

Systems and institutions are fundamental components of every society. In the nature of things, a few men and women necessarily steer these systems and institutions on behalf of all. In simple parlance, the general populace constitutes “the governed” while the persons charged with steering the systems and institutions enjoy different appellations and ascriptions - leaders, rulers, governors, managers, etcetera. Whatever the appellation, these persons mandated to direct a society’s affairs collectively constitute the leadership of that society. By making public policies and managing affairs of the society, they exercise and control authority over that society. There is no denying that the absence of any form of governance in a society immediately situates it in the Hobbesian state of nature where life is brutish, nasty, and short;<sup>3</sup> whereby public disorder is enthroned and anarchy is established. The essence of governance therefore is avoid such scenarios.

Of course, the presence of governance or government in any society does not necessarily translate to the absence of anarchy or public disorder. Concomitantly, there must exist structured systems and institutions founded on rules, principles and customs to regulate the affairs of that society which are enforceable and enforced by its leaders. Looking at how today’s world affairs are managed begs the question: does the presence of structured systems and institutions guarantee good governance? This paper will attempt to answer this and allied questions with particular reference to the Nigerian political landscape. Where necessary, the paper will consider the relevant parts of the Nigerian legal system.

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<sup>3</sup> Thomas Hobbes, The Leviathan, Renaissance Edition <<https://scholarsbank.uoregon.edu/xmlui/bitstream/handle/1794/748/leviathan.pdf>>

Let me hasten to add that the issues raised in this paper is not merely academic, but border on a pragmatic consideration of the Nigerian question. As Udombana rightly captures it, “Nigerians may not agree on such high-sounding philosophical and political theories as existentialism, metaphysics, idealism, rationalism, nationalism, or pragmatism, but Nigerians everywhere agree on, and desire, good governance, peace, stability, prosperity, freedom, justice and equity. There could be wide disagreements about truths and about *telos* - the ends of society - but Nigerians desire a country where everyone has an opportunity to aspire and perspire without inhibitions based on sex, place of birth, language, or other meaningless considerations. They desire a country where merit prevails over mediocrity and nepotism, and where its leaders work for the common good irrespective of ethnic or religious affiliations. Thus, even in the current atmosphere of mistrust and intolerance, Nigerians could proceed on these fundamental issues”.<sup>4</sup>

This paper commences by attempting a conceptual clarification of certain words and phrases relevant to the topic under consideration. Next, it considers governance generally, placing the basic principles of good governance against bad governance. Next, the paper examines the interface between democracy and good governance and evaluates measures adaptable towards enthroning democracy and ensure good governance in Nigeria. The penultimate section reflects on what needs to be done to enthrone democracy and good governance in the Nigerian political setting. The paper concludes with practical considerations of the society’s role in sustaining good governance and democracy.

## PART II

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<sup>4</sup> CONSTITUTIONAL RESTRUCTURING AND FISCAL FEDERALISM.

Paper presented at a Dinner Lecture in honour of Senator Godswill Akpabio, Uyo, 23 Dec. 2017 (on file with author).

## CONCEPTUAL CLARIFICATION

It is rare to find a universally acceptable definition for any concept. Definitions often reflect the definer's idiosyncrasy. Speaking on the difficulty of having a generally acceptable definition, Niki Tobi, JSC opined thus:

“Definitions of words, including 'federalism' or 'federal government', by their nature, concept or content, are never fully accurate all the time, like a mathematical solution to a problem. Definitions are definitions because they reflect the idiosyncrasies, inclinations, prejudices, slants and emotions of the person offering them. While a definer of a word may pretend to be impartial and unbiased, the final product of his definition will, in a number of situations, be a victim of partiality and bias.”<sup>5</sup>

With the foregoing caution in mind, this section attempts to explain some associated concepts without necessarily asserting perfection in their descriptions.

### *GOVERNANCE*

The word 'governance' is a word that immediately brings to mind 'government' or 'public administration'. In today's world, where the word's usage may carry no connotation of public administration, 'governance' is often used within a particular context. According to Al-Habil:

“The meaning of governance has shifted in the last couple of decades. To public servants it used to be the definition of what they did, exercise public authority to fulfill a

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<sup>5</sup> Olafisoye v. FRN [2004] 4 NWLR (pt. 864) 580 at 647, paras. E-F.

public purpose, the term used to encompass administrative techniques and management approaches and a political sense. Government, in its new light has expanded to include the non profit and private sectors, and is often seen as a substitute for government action. There is a myriad of players on the ball field and government is just another player.... The concept of governance has come to be widely used, yet it is not always clear what the term means. The growing European literature characterizes it best as ‘government without government’.”<sup>6</sup>

That is why in today’s world, we hear terms like ‘corporate governance’, ‘governance structure’, and *etcetera*.

Etymologically, the word ‘governance’ is said to originate from the Greek word *kubernáo*, meaning “to steer” - as in steering a ship.<sup>7</sup> Plato is said to use the Greek term metaphorically to designate the rule of men.<sup>8</sup> According to Francis Fukuyama, governance is “. . . a government's ability to make and enforce rules, and to deliver services, regardless of whether that government is democratic or not.”<sup>9</sup> In a European Union supported paper titled: “Concepts and Principles Of Democratic Governance and Accountability: A Guide for Peer Educators”, governance was described thus:

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<sup>6</sup> Wasim Al-Habil, Governance and Government in Public Administration; Journal of Public Administration and Policy Research Vol. 3(5), pp. 123-128, May 2011 (available online at <<http://www.academicjournals.org/journal/JPAPR/article-full-text-pdf/C5C61B010035>> downloaded December 11, 2017)

<sup>7</sup> See International Centre for Parliamentary Studies (ICPS): Governance <<http://www.parlicentre.org/Governance.php>> last visited December 10, 2017;.

<sup>8</sup> See the English translation of <[http://ec.europa.eu/governance/docs/doc5\\_fr.pdf](http://ec.europa.eu/governance/docs/doc5_fr.pdf)> translated December 11, 2017.

<sup>9</sup> Francis Fukuyama, What is Governance? <[https://fsi.fsi.stanford.edu/sites/default/files/What\\_Is\\_Governance\\_v3.pdf](https://fsi.fsi.stanford.edu/sites/default/files/What_Is_Governance_v3.pdf)> downloaded December 10, 2017.

“Governance, simply put, is the process of decision-making and the process by which decisions are implemented or not implemented. Since decisions made can be good or bad, the analysis of the process by which we arrive at decisions is important in governance.”<sup>10</sup>

The immediate foregoing definition is particularly relevant to our discourse because of its reference to ‘good’ or ‘bad’ decision. The narrative seems also to be on the process leading to the conclusion reached. For the purpose of this paper, we will adopt the following functional definition of ‘governance’, to wit, as the legal control, steering and organisation of the people within a political setting; the exercise of political authority over members of a society. In this context, governance is a broad concept that incorporates the making, administering and interpreting laws applicable to the society. As earlier noted, it involves having certain persons in charge who are authorised to do the *steering* and hold the mantle of governance. When one therefore speaks of the good governance, the searchlight beams on these leaders.

### *GOOD GOVERNANCE*

It is generally agreed that the term good governance was first brought to international prominence in the year 1989 through a World Bank document titled: Sub-Saharan Africa: From Crisis to Sustainable Growth.<sup>11</sup> In the Foreword to the World Bank

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<sup>10</sup> Concepts And Principles Of Democratic Governance And Accountability: A Guide for Peer Educators (Published under the project: ‘Action for Strengthening Good Governance and Accountability in Uganda’ by the Uganda Office of the Konrad-Adenauer-Stiftung) <[http://www.kas.de/wf/doc/kas\\_29779-1522-2-30.pdf?11121919022](http://www.kas.de/wf/doc/kas_29779-1522-2-30.pdf?11121919022)> downloaded December 7, 2017

<sup>11</sup> See Good Governance in the Middle East Oil Monarchies (Edited by Tom Pierre Najem & Martin Hetherington), Durham Modern Middle East and Islamic World Series 4; Published by RoutledgeCurzon, New York, 2003. Available for download at <[http://www.untag-smd.ac.id/files/Perpustakaan\\_Digital\\_1/GOOD%20GOVERNANCE%20Good%20governance%20in%20the%20Middle%20East%20oil%20monarchies.pdf](http://www.untag-smd.ac.id/files/Perpustakaan_Digital_1/GOOD%20GOVERNANCE%20Good%20governance%20in%20the%20Middle%20East%20oil%20monarchies.pdf)> Downloaded December 12, 2017

document, the President of World Bank at that time, Barber B. Conable, ushered in the use of the now globally accepted term, good governance when he stated thus:

*“A root cause of weak economic performance in the past has been the failure of public institutions. Private sector initiative and market mechanisms are important, but they must go hand-in-hand with good governance-a public service that is efficient, a judicial system that is reliable, and an administration that is accountable to its public.”<sup>12</sup>*

At page 61 of the World Bank document, it was also noted that a free and vigilant press is also an important component of good governance.<sup>13</sup> From the foregoing, it is clear that the World Bank considered good governance in the context of economic performance. And in the brief description contained in that document, the good governance components or ingredients are:

- a. efficient public service (government effectiveness);
- b. reliable judicial system (rule of law);
- c. being accountable to the public (accountability); and
- d. freedom of the press (transparency/public scrutiny).

Good governance is a very wide concept that entails running the affairs of the government in a manner that is optimally beneficial to the people. In this context, Johnston described good governance thus: “Good governance: legitimate, accountable, and effective ways of obtaining and using public power and resources in the pursuit of widely-accepted social

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<sup>12</sup> Sub-Saharan Africa: From Crisis to Sustainable Growth: A Long-Term Perspective Study: The World Bank, Washington, D.C. November 1989 (ISBN 0-8213-1349-5) <<http://documents.worldbank.org/curated/en/498241468742846138/pdf/multi0page.pdf>>

<sup>13</sup> *Ibid.*



goals”.<sup>14</sup> Johnston’s definition of good governance is as simple as it can get. It showcases some of the principal elements of good governance. From this definition, some of the key underpinnings of accountability and government effectiveness are again patent. More importantly, Johnston’s definition also brings to fore the good governance as a measure of using public power and public resources for the good of the people as against personal interest of the persons saddled with the use of the power.

With regard to using public power and public resources for the good of the people, the Prime Minister of the United Arab Emirates, Sheik Mohammed bin Rashid Al Maktoum, wrote:

“What is the government’s job?

Indeed, our daily work is all about achieving happiness for people. When governments evolve and develop services to make people’s lives easier, they contribute to their comfort and happiness. When governments create opportunities for people, this makes them happy. When governments offer the best education, they equip young people to build their future and so to achieve happiness for themselves. When governments develop infrastructure, they reduce the amount of time wasted travelling, which undoubtedly contributes to people’s happiness and comfort. When justice is served, the whole society is satisfied and reassured. There is nothing more beautiful than to create joy in people’s hearts. This is our aim in developing services, holding

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<sup>14</sup> Michael Johnston (Colgate University): Good Governance: Rule of Law, Transparency, and Accountability  
<<https://pdfs.semanticscholar.org/f4d5/d7a4148392f3be3316655c899c8fb00bb731.pdf>>  
downloaded December 7, 2017

conferences and discovering the best government practices out there. We want to make people happy and we ask God to help us in our quest. When any official puts his mind to this purpose, his days, his decisions, his projects and even his interactions with people will change completely. Even his self-satisfaction will improve a great deal when he knows that he is contributing to the happiness of thousands of people.”<sup>15</sup>

From the above, one can see that Sheik Al Maktoum considers happiness of the people as the major driver of good governance. He aligns his view with those that believe in the happiness of the people as an indicator of development. He further wrote thus: “We could think of happiness as the foundation for many of our ideas and policies. Indeed, some international institutions have even adopted citizen happiness and satisfaction as scientific indicators of development.”<sup>16</sup> In his view, where the primary consideration of a government is the achievement of the happiness for its people, that government is doing its job and could be said that its governance is good.

In addition to accountability and government effectiveness, other indicators of good governance include transparency; adherence to the rule of law; responsiveness; and equity and inclusiveness. The United Nations Economic and Social Commission for Asia and the Pacific sums all up when it described good governance in the following terms:

“Good governance has 8 major characteristics. It is participatory, consensus oriented, accountable,

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<sup>15</sup> Sheik Mohammed bin Rashid Al Maktoum, *Flashes of Thought* (Motivate Publishing, Dubai) at pages 12 and 13.

<sup>16</sup> *Ibid.* at page 15.

transparent, responsive, effective and efficient, equitable and inclusive and follows the rule of law. It assures that corruption is minimized, the views of minorities are taken into account and that the voices of the most vulnerable in society are heard in decision-making. It is also responsive to the present and future needs of society.”<sup>17</sup>

We shall use these eight characteristics as templates for further discourse on the concept.

**Public participation:** This entails that a government should be open and accessible to the people as to enable them participate in governance. It obligates the government, before taking decision, to involve the people who are likely to be affected by such decisions. In other words, those who will be affected by any policy have a right to be involved in the shaping of that policy, at least, at the level of information. This is the essence of public participation.

**Consensus Building:** It is not enough for the government to entertain the views of the people; it must allow those views to influence its decisions. Good governance cannot accommodate dictatorship. Since government exist through social contract, there must be consensus between people’s expectations and government positions.

**Accountability:** Accountability is central to good governance. A government must be accountable to the people, otherwise its actions, policies and affairs will not advance the common good. Without accountability, good governance is a mirage. Rendering

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<sup>17</sup> *The United Nations Economic and Social Commission for Asia and the Pacific: What is Good Governance* <<https://www.unescap.org/sites/default/files/good-governance.pdf>> downloaded December 12, 2017.

of account must be a routine matter. Communication is a key element in this respect.

**Transparency:** The government must create an enabling environment for the people to monitor its activities. Free and unhindered information flow must characterise government activities. As those who will be affected by official decisions, the people do not need to ask before the government allows them to see its activities. Keeping the people abreast of government activities avoids suspicion. A free and vigilant press is also an important component of good governance. A free press will advance an efficient information dissemination.

#### ACCESS TO INFORMATION

To ensure transparency, it is pertinent for the members of the public to have access to information. Nigeria already has a legal framework designed to serve that purpose. Section 39 of the Constitution of the Federal Republic of Nigeria, 1999 (as altered) provides for the right to freedom of expression including the *right to receive and impart ideas and information without interference*. Further, to ensure that the public has uninhibited access to public information, the Federal Government enacted the Freedom of Information (FOI) Act in 2011. Section 1(1) provides:

“(1) Notwithstanding anything contained in any other Act, law or regulation, the right of any person to access or request information, whether or not contained in any written form, which is in the custody or possession of any public official, agency or institution howsoever described, is established.”

Section 2 makes it mandatory for public institutions to record and keep information on all its activities. It also makes it mandatory for public institutions to disseminate information and make it readily available to members of the public.

As lofty as the FOI Act is, it is easier for a camel to pass through the eye of a needle than to get information from public institutions. There is much bottleneck in the process of procuring information from these institutions. That is not evidence of good governance. Besides, many States within Nigerian have shown reluctance in adopting the FOI Act into local laws, probably because transparency and corrupt practices are not bedmates.

Commenting on the lack of access to information as regards the recent budget presentation in Lagos State, Oladeinde Olawoyin wrote:

“The [budget](#), the biggest ever by the Lagos State government since its creation, was made up of N507.816 billion earmarked for capital expenditure and N305.182 billion set aside for recurrent expenditure, an aggregate ration of 62:38. But a breakdown of the budget figures has been kept away from the cameras as well as the public, a marked departure from previous years where even a summary of expenditures and earnings were uploaded on the government’s official website. ‘They (Lagos State government) are very tricky about it,’ Stanley Achonu, Operations Lead at BudgIT, a civic organisation that helps Nigerians better understand government’s annual budgets. ‘What they publish is the summary of the budget, you know, what went to

what ministry, it doesn't include details of the budget.' For the 2017 fiscal year, both the summary and the detailed breakdown - which had never been publicly disclosed - of the budget is missing on the budget website of the Lagos State government. Months of efforts to get a clarification from Steve Ayorinde, the Commissioner for Information and Strategy, yielded no results as he neither answered phone calls nor replied text messages.”<sup>18</sup>

The *Premium Times* report further noted:

“In August, PREMIUM TIMES submitted two requests to the Lagos State government - an official letter requesting information and a Freedom of Information request - seeking the cost of some of these projects, including that of the 20 patrol vehicles procured for the Rapid Response Squad of the Lagos State Police Command. Although the state government acknowledged receipt of the two letters, there have been no response two months after. A similar FOI request months earlier asking for the cost of some projects undertaken by the state's water corporation was also acknowledged but the information was not provided. A Subnational Transparency Report published this year by BudgIT listed Lagos State among 16 states in Nigeria without a detailed public budget.”<sup>19</sup>

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<sup>18</sup> See Oladeinde Olawoyin, “In Ambode's Lagos, Citizens Have No Right to Know Govt. Budgets, Spending”, *Premium Times*, October 14, 2017 <<https://www.premiumtimesng.com/news/headlines/246096-ambodes-lagos-citizens-no-right-know-govt-budgets-spending.html>>

<sup>19</sup> *Ibid.*

The foregoing Premium Times report illustrates the design of a government shrouding its affairs in secrecy.

***Responsiveness:*** This entails that a government should promptly attend to queries, questions and issues raised by the people. The opposite of responsiveness is neglect. The fact that the people know the government will answer their questions sincerely encourages them to have confidence in the government. Complaints on infrastructure deficiencies or service deliveries should be promptly addressed. Issues should not degenerate before government respond to them. This typifies good governance.

***Effectiveness and Efficiency:*** Government is a serious business and must be run and seen as such. Government should engage in result-oriented activities and ensure that the quality of service delivery is top notch at all times. Thresholds must be constantly set and adhered to, and public expectations must be met, from time to time.

***Equity and Inclusiveness:*** A good government must understand that every member of the society deserve to be treated equally before the law and that no one is more equal than another. Further, a government must always accommodate all divergent views in the society. The unsavoury doctrine of 'sacred cows' should not be applied, and the government must not mind whose ox is gored. Opinions of all must always count for something, regardless of status. In addition, there must be a separation of powers to ensure checks and balances. The judiciary must be independent in a manner that will free it from external influence. Equity and equality before the law suffers whenever judicial independence is compromised.

From the above espoused characteristics of good governance, it is beyond cavil that they dovetail into established democratic principles. This explains why democracy and good governance appear to be Siamese twins. What then is Democracy?

### *DEMOCRACY*<sup>20</sup>

Democracy is a word that appears to have a universally accepted definition. Etymologically, “democracy” has its root in two Greek words: ‘*demos*’ (people) and ‘*kratic*’ (to rule). This, ordinarily, means rule by the people.<sup>21</sup> This accords with Abraham Lincoln’s famous definition of democracy as: “Government of the people, by the people, for the people.”<sup>22</sup> “As ideal”, says Schaffer, “democracy has something to do with the goal of people participating meaningfully in their own governance, a goal that seems to require, among other things, the lessening of inequalities that inhibit such participation.”<sup>23</sup>

Although by definition, democracy enables every member of the society to participate in the government, it may be impracticable to expect every member of the society to participate in the day-to-day governance. Thus, it becomes necessary for the people to freely choose certain persons to act as their representatives in government. A contemporary

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<sup>20</sup> This section of the paper is largely derived from the author’s earlier paper titled: Election Monitoring and the Role of Security Operatives in Midwifing Lasting Democracy

<sup>21</sup> In the foregoing context, democracy, as a political concept, is the direct opposite of ‘oligarchy’, that is, *rule by few*. The Black’s Law Dictionary defines ‘oligarchy’ as: “A **government in which a small group of persons exercise control...**” (Brian A. Garner (Editor-in-Chief), *Black’s Law Dictionary* (8<sup>th</sup> ed. Thomson 2004) 1120).

<sup>22</sup> President Abraham Lincoln, The Gettysburg Address, November 19, 1863 (quoted in The History Place: Great Speeches Collection <<http://www.historyplace.com/speeches/gettysburg.htm>> last visited on November 11, 2013)

<sup>23</sup> Frederic C. Schaffer, *Political Concepts and the Study of Democracy: The Case of Demokaraasi in Senegal* (Massachusetts Institute of Technology) <<http://www.cerium.ca/IMG/pdf/Schaffer.pdf>> last visited November 11, 2013.



definition of ‘democracy’ must necessarily accommodate direct participation as well as participation through elected representatives. An apt definition is: “a form of government in which the supreme power is vested in the people collectively, and is administered by them or by officers appointed by them....”<sup>24</sup>

A ‘direct democracy’ occurs where the people administer the power directly. On the other hand, where the people administer the power through representatives chosen by them, then we speak of representative democracy.<sup>25</sup>

In describing good governance earlier, it was noted that democracy and good governance share similar principles. Having accountability, transparency, participation and adherence to the rule of law as some of the shared principles. Although democracy bears some strong similarities with good governance, it has been argued that good governance can exist outside a democratic setting and vice versa. The next segment considers this and similar issues.

### PART III

#### UNDERSTANDING THE INTERPLAY BETWEEN GOOD GOVERNANCE AND DEMOCRACY

##### *Good Governance Indicator*

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<sup>24</sup> The Chambers Dictionary (Chambers Harrap Publishers Ltd 1993, Edinburgh) 448

<sup>25</sup> It has been argued by some writers that ‘representative democracy’ is, as a matter of fact, a variant of oligarchy because power still ends up in the hands of the few albeit chosen by many. See Takis Fotopoulos, *The Multidimensional Crisis and Inclusive Democracy*, (2005), Chapter 11: The meaning of democracy. <<http://www.inclusivedemocracy.org/journal/ss/ch11.htm>> last visited November 11, 2013.

It is without doubt that a strong democratic system where all the identified tenets of democracy are adhered to guarantees the institutionalisation of good governance. Good governance ensues where an elected government upholds and practice the following:

**Accountability:** when public officials acknowledge or accede to the fact that they owe the governed detailed explanation for their actions and policies while in office, circumspection comes to the fore. Stewardship is a tool of ensuring that the best interest of the people is the government's primary consideration. Where the leaders fail to render such stewardship, it is the responsibility of the governed to demand such. This is the essence of the Freedom of Information Act and other ancillary legislations in this regard, this we shall explore later.

**Transparency:** closely linked to accountability is transparency. When public office holders know that their actions and inactions are under the people's microscope, they will think twice before engaging in any misconduct. Here, the people must be able to "see" and not be faced with a translucent screen. Therefore, the effectiveness of public scrutiny cannot be over-emphasised. This is to be captured in all the acts of the leaders, particularly, the procurement process and services delivery. This is the essence of the Procurement Act, the laws and other mechanisms germane to open government. Of course, the Freedom of Information Act is instructive again.

**Government Effectiveness:** a government that can boast of sound quality in the area of public service delivery, policy formulation and implementation and an efficient civil service can rest be assured that it is on the right track. Equally

important is the ability of the government to shield itself from political pressure.<sup>26</sup> This essentially borders on responsiveness and broad-mindedness (the truth is that most of the leaders are narrow-minded and most times incapable of appreciating the bigger picture). Most importantly, such effective governments allow institutions to run without undue interference.

**Rule of Law:** in a society where everything is done in accordance with the law and no one is above the law, the rule of law reigns supreme. Here, the independence of the judiciary is recognized and impunity is eschewed. On rule of law, the learned jurist, Obaseki, JSC once opined thus:

*“The Nigerian Constitution is founded on the rule of law the primary meaning of which is that every thing must be done according to law. It means also that government should be conducted within the framework of recognized rules and principles which restrict discretionary power which Coke colourfully spoke of as ‘golden and straight metwand(sic) of law as opposed to the uncertain and crooked cord of discretion’ (see 4 Inst. 41). More relevant to the case in hand, the rule of law means that disputes as to the legality of acts of government are to be decided by judges who are wholly independent of the executive.”<sup>27</sup> [Emphasis mine]*

Any society that submits to the rule of law (as described by Obaseki, JSC) seeks to enthrone good governance.

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<sup>26</sup> For more on government effectiveness indicator, see <<https://www.mcc.gov/who-we-fund/indicator/government-effectiveness-indicator>> visited December 12, 2017.

<sup>27</sup> Gov. of Lagos State v. Ojukwu [1986] 1 NWLR (Part 18) 621 at 638, paras. E-G.

In a book titled: *The Rule of Law*, by Tom Bingham, while quoting A. V. Dicey, gave a brief but detailed explanation of the Rule of Law thus:

“Dicey gave three meanings to the rule of law. ‘We mean, in the first place,’ he wrote, ‘*that no man is punishable or can lawfully be made to suffer in body or goods except for a distinct breach of law established in the ordinary legal manner before the ordinary courts of the land.*’ Dicey’s thinking was clear. If anyone - you or I - is to be penalized it must not be for breaking some rule dreamt up by an ingenious minister or official in order to convict us. It must be for a proven breach of the established law of the land. And it must be a breach established before the ordinary courts of the land, not a tribunal of members picked to do the government’s bidding, lacking the independence and impartiality which are expected of judges.

Dicey expressed his second meaning in this way: ‘We mean in the second place, when we speak of the “rule of law” as a characteristic of our country, not only that with us no man is above the law, but (which is different thing) that here, everyman, whatever be his rank or condition is subject to the ordinary law of the realm and amenable to the jurisdiction of the ordinary tribunals.’ Thus no one is above the law, and all are subject to the same law administered in the same courts. The first is the point made by Dr. Thomas Fuller (1654-1734) in 1733: ‘Be you never so high, the law is above you.’ So if you maltreat a penguin in London Zoo, you do not escape prosecution because you are Archbishop of Canterbury; if you sell honours for a cash reward, it does not help that you are a Prime Minister. But the second point is important too. There is no special law or court which deals with

archbishops and prime ministers: the same law, administered in the same courts, applies to them as to everyone else.”<sup>28</sup> [Emphasis mine]

This, without the need of adding any word, elucidates the essence of the rule of law. Is this scenario in our country? Let me digress slightly into good governance and other systems of government.

### ***Good Governance: Democracy Vs. Other Systems of Government***

The point that one may seek to address is whether these underpinnings of good governance can only be found in a democracy. Is good governance achievable in an absolute monarchy or a military government?

In my opinion, good governance is achievable in any system of government. All that matters is how the society is steered. Where the leadership of the society has the interest of the people at heart and make the best interest of the society its primary consideration, that sincerity of purpose will help in achieving the end of good governance.

The United Arab Emirates is one of the most prosperous and fastest-developing nations in the world. It is a developing country, but it enjoys a buoyant economy and high tourism traffic. It can be said that the leaders of the Emirates that constitute the United Arab Emirates (particularly Dubai) best exemplify our contention where the best interest of their people appears to be their primary consideration. Interestingly, the United Arab Emirates is not a Democracy. Other examples

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<sup>28</sup> Tom Bingham, *The Rule of Law*: Penguin Books (England) 2010 at pages 3 and 4.

abound. Qatar is another monarchy that runs a buoyant economy and, arguably, tenets of good governance.

Another point worthy of consideration is whether good governance can be achieved in a military regime. In a society like ours where military government has been synonymous with bad government, it may be easy to conclude that military regime and good governance are two parallel lines. In fact, in Nigeria, a saying that has enjoyed prominence is: “the worst civilian government is better than the best military government”. Those with the contrary opinion argue on the basis of practicality. It is their position that Nigeria enjoyed her best economic periods during the military regimes. In this respect, references are made to enduring infrastructural developments that were put in place by the various military governments. They are also quick to point that the so-called democracy has always put the nation on the precipice of a failed economy. Equally, they seek credence in the fact that in the past 17 years of uninterrupted democratic government, unbridled corruption has taken preeminence in Nigeria.

As we all can recall, in the build-up to the 2015 presidential election, during an interview with CNN’s Christiane Amanpour on February 12, 2015, President Muhammad Buhari (then a presidential candidate) responded to a question thus:

“We have to, because there are serious citizens of this country that say **unless Nigeria kills corruption, corruption will kill Nigeria**. And that’s best illustrated by another hearing conducted by the National Assembly on pension fund, electricity and then the corruption in the petroleum industry from where the country derives over 90 percent in external revenue. The National Assembly

conducted a hearing here in Abuja and in the six geopolitical zones of the country, then they took the recommendation to the executive, **and it's been collecting dust for the past 18 months.**"<sup>29</sup>

President Buhari's comment best illustrates the fact that factors that engender corruption continue to persist under Nigeria's brand of democracy. These factors include lack of accountability, lack of transparency, government ineffectiveness, and impunity. In fact, recent events validates this.

Despite the foregoing argument, can a military government profess good governance? Whilst it is possible for a military government to lay claim to adherence to the principles of accountability, transparency and government effectiveness, it remains to be seen whether adherence to the tenets of rule of law are compatible with the military government. Under the military, in order to consolidate power, the first enactment is the decree that suspends and modifies certain fundamental parts of the constitution (particularly the part relating to the supremacy of the constitution). Under the military, retroactive laws constitute the order of the day and with the aid of ouster clauses, judicial powers are grossly undermined. Inherent in the foregoing is that the military government is not accountable to the people since its actions and decisions can hardly be questioned.<sup>30</sup> Based on the foregoing, it is safe to conclude that

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<sup>29</sup> See CNN: CNN's Christiane Amanpour speaks with Nigerian presidential candidate Muhammadu Buhari about Boko Haram, corruption and his own controversial past. <<http://edition.cnn.com/videos/world/2015/02/11/intv-amanpour-muhammadu-buhari.cnn>> last visited December 12, 2017.

<sup>30</sup> For a fuller reading, see Professor Itse Sagay, The Constitution, The Courts And The Rule of Law <<http://www.profitsesagay.com/pdf/THE%20CONSTITUTION.pdf>> downloaded December 12, 2017. See also Sunday E. Edeko, THE LEGALITY OF THE CONSTITUTION VERSUS THE DICTATES OF MILITARY POWER IN A STATE OF REVOLUTION, Sacha Journal of Policy and Strategic Studies Volume 1 Number 1 (2011), pp. 137-158

although military government may exhibit some traits of good governance and carry out some people-oriented programmes and development, it cannot be truly said that a military government and good governance (in the true sense of the term) are compatible.

Similarly, despite the fact that these underpinnings of good governance are engrained principles of democracy, one cannot safely conclude that they exist in all world democracies (even with the aid of a magnifying glass). In this regard, Nigeria is the focal point of this paper.

#### *NIGERIA, DEMOCRACY AND CIVIL RULE*

The major peculiarity of democracy is the ability of the people to choose their leaders through elections. Election is at the heart of democracy because without the ability of the people to elect their own leaders, there cannot be a democracy. However, as shown above, elections alone do not make a democracy. Other fundamental principles must exist and be adhered to in order for a society to claim true democracy. A society that elects its leaders but lacks accountability, transparency, government effectiveness, adherence to the rule of law, neutrality of state institutions, political tolerance and control of abuse of power is not a democracy. At best, what that society has is *civil rule*. This in one's view appears to be the Nigerian situation.

In an article titled "*Of National Pride and the Obama Snub*" published in the Daily Trust of May 24, 2009, Ibrahim Dan Gabas opined thus:

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<<http://www.sachajournals.com/user/image/edekosjps002.pdf>> downloaded December 12, 2017.



“Politics rule the world, democracy rules the people. Nigeria has neither. Yes, we are in civil rule, and we are even about to roll out the drums, albeit on a very modest scale to shout eureka, we got the military back to the barracks. And if you ask me, that is worth celebrating. Nigeria has taught the world the difference between civil rule and democracy. We have just taught the world that it is possible not to be in a dictatorship but at the same time not to have democracy.”<sup>31</sup>

Similarly, in describing civil rule and distinguishing it from democracy, Enyi John Egbe stated thus:

“There is a dearth of literature on the concept of civil rule. This is because it has been established that, democracy is civil rule. This however, is not true in many African countries and Nigeria in particular. In the western world especially in America, there are agitations for a republic as an ideal form of government rather than democracy. Soueze (2005) avers that civil rule is not necessarily the same with democracy. Thus, in this paper we can define civil rule to mean the transfer of governance from the military to the civilians through a sporadic elections that de-emphasize the electoral processes and freedom of the electorates. In such a situation, the masses and their natural endowments work for the benefits of the few privilege people. A characteristic of civil rule is that, rather than the supremacy of the constitutions, there is the supremacy of political leaders who decide how long a leader remains in

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<sup>31</sup> See <<https://www.dailytrust.com.ng/news/wakaman/of-national-pride-and-the-obama-snub/83632.html>> last visited December 13, 2017. Please note that this does not constitute an endorsement of every view expressed in Ibrahim Dan Gabas’ article under reference.

power and when elections will be conducted. The fact that the leadership is supreme, the freedom of choice and expression which are kennels of good governance are restrained. The above is a classical case of what we have in Nigeria.”<sup>32</sup>

Egbe’s position aptly captures the Nigerian situation where the people have confused civil rule with democracy. Until Nigeria can lay legitimate claim to systems and institutions that guarantee the basic principles of democracy, she can never claim to be a democracy. It follows necessarily that until that time, good governance cannot feature in the polity.

The next point of importance is this: how can true democracy and good governance be enthroned in Nigeria?

#### Part IV

##### ENTHRONING DEMOCRACY AND GOOD GOVERNANCE IN NIGERIA

The most essential element of a democracy is the election of the people’s representatives through a free and fair process. If the process of electing the leaders is truly free, the people could be assured that bad leaders would be shown the door at the next election. This, on its own, is enough to make the leaders sit up and ensure that their decisions and policies are people-oriented.

##### THE ELECTORAL PROCESS

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<sup>32</sup> Enyi John Egbe, Nigeria’s Fourth Republic-Democratic or Civil Rule: Arabian Journal of Business and Management Review (Nigerian Chapter) Vol. 2, No. 2, 2014, page 31 to 40 <[https://www.arabianjbm.com/pdfs/NG\\_VOL\\_2\\_2/4.pdf](https://www.arabianjbm.com/pdfs/NG_VOL_2_2/4.pdf)> downloaded December 12, 2017.

The electorate must know that election starts from the point of voters' registration. By **section 12(1) of the Electoral Act, 2010 (as amended)**, a citizen of Nigeria that has attained the age of 18 years and is not subject to any legal incapacity to vote under any law, rule or regulation in force in Nigeria is qualified to be registered as a voter. It is, therefore, important that every eligible person in the society should register to vote. One does not have to form the intention of contesting in an election or have the intention of canvassing for a candidate before one deems it fit to register as a voter. This is a civic responsibility. In a democracy, your vote speaks for you. However, as at date, the major challenge to our electoral process is that the masses are yet to appreciate the nexus between their lives and their votes (franchise).

Of equal importance is the need for members of the society to join political parties of their choice. Political parties play a fundamental role in a democracy. In Nigeria, only a political party can canvass for votes for any candidate at an election. Sections 221 of the Constitution of the Federal Republic of Nigeria (as altered) provides that: "No association, other than a political party, shall canvass for votes for any candidate at any election or contribute to the funds of any political party or to, the election expenses of any candidate at an election."

The effect of this is that any person that desires to contest in an election must be a member of a political party. Similarly, any association that seeks to canvass for votes for any candidate at any election has to be registered as a political party.<sup>33</sup>

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<sup>33</sup> See section 222 of the Constitution of the Federal Republic of Nigeria, 1999 for the restriction on the formation of political parties.. See also paragraph 15(b) of Part I of the Third Schedule to the Constitution which empowers Independent National Electoral Commission to register political parties in accordance with the provisions of the Constitution and Acts of the National Assembly.

In Nigeria, people only become members of political parties because they have formed the intention of contesting or using the platform of that political party to contest in election or canvassing for person that seeks the political party's nomination for the election. Due to this, only a few people who are members of the political parties participate in the process leading to the nomination of candidates at an election. By this singular fact, the general populace is left to choose from these candidates nominated by the political parties not minding whether any of the candidates is fit to serve in the elective position he seeks. Based on the foregoing, it is essential for several members of the society to register as members of a political party irrespective of any intention to contest for any post. This aids in the ultimate nomination of quality candidates.

Merely registering as a member of a political party may not carry any weight. At the political party level, it is essential for one to be active enough to have a say in the nomination process. A bystander can hardly effect change or ensure transparency in the nomination process. Before a country can practise true democracy, the affairs of the political parties in that society must also be democratic. This is the essence of internal democracy in the affairs of political parties.

In order to ensure fairness in the nomination of candidates for an election, section 87 of the Electoral Act, 2010 (as amended) sets out the guidelines, rules and steps that a political party must follow in the nomination of its candidates for elections. Section 87(1) makes it mandatory for political parties seeking to nominate candidates for election under the Act to hold primaries for aspirants to the elective positions. Section 87 of the Electoral Act, 2010 (as amended) also stipulates the different types of primary election (direct primaries and

indirect primaries) and the different steps a political party must follow (depending on whether it adopts direct primaries or indirect primaries). In order to avoid imposition of candidates, where there is only one aspirant, section 87(6) of Electoral Act still requires that the candidacy of the sole aspirant be confirmed at a special convention or congress through a voice vote (yes or no). On the aim of section 87, in *PDP v. Sylvia, Chukwuma-Eneh*, JSC opined thus:

“The clear object the provisions of section 87 is intended to achieve besides the inculcation of internal democracy in the affairs of political parties in this country moreso in the conduct of their party primaries includes thus making them transparent and providing level playing ground for their contestants in party primaries....”<sup>34</sup>

To further ensure internal democracy in their affairs, the political parties have provisions stipulating the procedure for the nomination of their candidates for election. Article 20 of the Constitution of the All Progressives Congress, for example, clearly provides that candidates can only emerge through democratic means. In compliance with the section 87(7) of the Electoral Act, 2010 (as amended), in case of indirect primaries, Article 20 of the Constitution of the All Progressives Congress provides for the democratic election of delegates that will vote at the primaries. Of utmost importance is the fact that the aforesaid Article 20 specifically forbids imposition of candidates even where the aspirant is unopposed.

Without a doubt where the letters of the Electoral Act and the party constitution are followed, the will of the people will prevail and the autocratic dictations of the “powerful minority”

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<sup>34</sup> [2012] 13 NWLR (part 1316) 85 at 148, paras. A-B

will be buried. However, this is not the case. The people are, generally, pliable, inert or susceptible to manipulations. It is, therefore, necessary for the members of the society to join political parties and be very active in the activities of the political party. Through this, the political parties can be removed from the whims and caprices of their leaders and the leaders will become accountable to the members of the political parties. These leaders will be made to adhere to the provisions of the law and the party constitution while being subjected to public scrutiny. Where this is so, good governance will reign supreme in the affairs of the political parties and, ultimately, the society at large. This is simply because quality candidates are largely likely to emerge from that process.

It is equally pertinent for the eligible members of the society to exercise their right to vote. As noted earlier, in a democracy, one's vote is the most potent weapon through which one could truly participate in a democracy. Where voter apathy is the order of the day, achieving good governance is a tall order.

Connected to this is voter education. Potential voters must be informed on how to register to vote, how to vote, who are the candidates at the election and the campaign promises of each candidate. In a democracy, the citizens must be provided with adequate information on participation in elections.<sup>35</sup> It is through this that the voter can exercise his franchise in an informed manner. This I believe is what the elites owe the large spectrum of illiterate persons that participates in the process. Voter education should include informing the citizens of the need to monitor their votes after casting same. Lack of monitoring gives room for manipulations.

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<sup>35</sup> See the section on voter education on INEC website <[http://www.inecnigeria.org/?page\\_id=22](http://www.inecnigeria.org/?page_id=22)> last visited on December 13, 2017

Another point worthy of note is the need to subject the persons that seek political offices to political debates. Outside the manifestoes, debates can be used as a tool for the extraction of promises from the aspirants. The effect of this is that after swearing in, the citizens must monitor the elected officials along the line of their campaign promises. Where they perform below the expectations of the threshold set, the right of recall as enshrined in Section sections 69 and 110 of the Constitution of the Federal Republic of Nigeria, 1999 should be resorted to.

Tied to the above is the right of the people to participate in peaceful protest as a form of expressing their views to the government. In this regard, the Constitution guarantees the right to freedom of expression<sup>36</sup> and peaceful assembly.<sup>37</sup> A peaceful protest is founded on these two constitutionally guaranteed rights. The people must be permitted to express their disapproval of government policies and decisions in a peaceful manner. The current tradition of making a police permit a prerequisite for a peaceful protest is not desirable. The courts have ruled such requirements as unconstitutional. At best, mere notification of the police should be enough. In any event, the government should be happy to hear the views of the people in so far as the views are expressed in a peaceful and constructive manner.

#### *PEDIGREE OF ASPIRANTS / CANDIDATES*

The people are only as good as the leaders they choose. In order to have good governance and true democracy, it is important

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<sup>36</sup> See section 39 of Constitution of the Federal Republic of Nigeria (as altered)

<sup>37</sup> See section 40 of Constitution of the Federal Republic of Nigeria (as altered).

that credible persons are elected into the legislative houses. This is so because without viable, vibrant and intelligent persons in the legislative houses, it may be difficult to pass people-oriented law.

#### *RECALL AND IMPEACHMENT*

The people must be able to ask their elected representatives questions. Where the elected representatives are found wanting, there must be measures in place to ensure that the electorates do not have to wait till the next general election to remove the failed representative from office. Here, sections 69 and 110 of the Constitution of the Federal Republic of Nigeria, 1999 (as altered) comes to mind. Under these respective sections of the Constitution, it takes a petition signed by more than one-half of the persons registered to vote in the constituency of the member of the legislative house to initiate the recall process.

Unfortunately, the electorate does not possess similar powers with respect to the president, vice-president, governor or the deputy governor. In their own case, the citizenry will have to rely on the members of the applicable legislative houses to carry out the removal of the president, vice-president, governor or the deputy governor in accordance with the provision of the Constitution.<sup>38</sup> This is why it is crucial to have quality and, conscious and independent people at the various houses.

## PART V CONCLUSION

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<sup>38</sup> For the removal of the president or vice-president, see section 143 of the Constitution of the Federal Republic of Nigeria (as altered) and section 188 for the removal of the governor or the deputy governor.



This paper has attempted to highlight ingredients of good governance and democracy. One of the conclusions to be drawn from the discourse is that, in any society where the people fear the government, there cannot be good governance or true democracy. Fear is an instrument of oppression, and oppressed people can hardly hold their oppressors accountable. This is indubitable. On the other hand, where the government officials have the fear of the people, they will tailor their actions, decisions and policies to meet the need of the people. This becomes easier to achieve where the leaders love the people. The words of the Pontiff on love of the people as a precondition for taking up government service are apropos.<sup>39</sup> This is where good governance reigns.

Furthermore, this paper has noted earlier that the citizenry has a major role to play in enthroning good governance and true democracy. Each citizen has a civic responsibility to be a model citizen. We must be willing to perform our societal duties as prescribed by the applicable laws. We cannot blame the leaders when we are the perpetrators of the ills that form the basis of our constant complaints. Moreover, when we see others committing a crime or any anti-social behavior, we must, as a matter of public interest, report it to the appropriate authority. Whistle blowing should not be the invitation, rather our conscious resolve should be the attraction. We must remember that our action or inaction must not be dictated by any inducement or promise of reward. A society where its people only report infractions of the law because of promise of reward is not yet on its way to having good governance. In order to get there, we must reorientated ourselves individually and collectively.

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<sup>39</sup> Ibid. at page 1, Fn. 1

It is only when the elected representatives and the people work together with sincerity of purpose and for the common good of the Nigerian society that we can boast of being a true democracy with good governance. On a conclusive note, the general purpose of the government is best captured in the words of Sheik Al Maktoum thus:

“We see the government as an active part of society, never as something that is separate or isolated. The government works for the people, achieves its objectives through the people and measures its success through their satisfaction. The government is an authority, but it is an authority at the service of the people and not an authority over them. Its mission is to please them and to build a promising future for their children.”<sup>40</sup>

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<sup>40</sup> *Ibid.* at page 15.