Public Trust and Accountability

Being a paper presented by Dr. Muiz Adeyemi Banire, SAN at the Public Lecture organised by Muslim Public Affairs Centre (MPAC) and held on the 17th day of December, 2017 at the National Theatre, Iganmu, Lagos.

Introduction

I must say it is a pleasure to be requested to deliver this lecture. The rationale for declaring pleasure in this 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 the role of our generation as leaders in this country has been a terrible source of worry while our profession of faith in the survival of Nigeria has been a regular source of denigration from those who ought to emulate our ways of life for the betterment of tomorrow.

For this wonderful opportunity to once again steer the hornet’s nest, may I express my appreciation to the organisers of today’s event, who in yesteryears were littluns[[1]](#footnote-1) being compelled to attend school to acquire western education but today are proud leaders of our society with immense pride in the past but whose 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.

However, before we venture into the full purport of my talk today, and cognizance of the fact that today’s topic delves on public trust and accountability, it might be desirable to indicate what I mean by “public trust” and “accountability” as concepts.

What is Public Trust?

Trust, simply put, is an obligation placed on an individual or organisation in respect of any undertaking by any such person or organisation. In the technical sense, trust “involves a relationship where property is vested in a person or persons for the benefit of another or others, or for a stated object”[[2]](#footnote-2). Generally, however, trust can be categorized into three;

1. God-related trust (trust owed to God. Such as the commandments contained in the Bible or Koran)
2. Trust to our fellow humans (Public and private trust)
3. Trust to one’s self.

In Islam, the word “trust” is described as “Amana” in Arabic language while betrayal of the trust is called “Khiyana”. The corresponding obligation in this regard is “accountability”, otherwise known in Arabic language as “Mas-uliyya”. The importance of trust in Islam is captured in Quran, chapter33, verse 72, where Allah says:

“We did indeed offer the trust to the Heavens and the Earth and the Mountains but they refused to undertake it being afraid thereof; but man undertook it; he was indeed unjust and foolish”. Similar expression you will find in the Bible. Luke 16, verse 12 – “And if you have not been trustworthy with someone else’s property, who will give you property of your own?”

These are words of exhortation on the need to always keep trust. The import of the above is that if the mountain or the rock that is static and without freewill as in the Earth and heavens rejects the trust, who are we as human beings to accept same? Is it truly not foolishness or act of ignorance as indicated by the Quran?. Today, we continue to justify the foolishness and ignorance as we breach the trust recklessly. In fact, it is reported in prophetic tradition that keeping of trust is part of faith, implying that you cannot to be faithful to your creator, if you fail or ignore to keep trust. And as the Bible provides above, it is unlikely that God enriches in any form where you are violator of trust.

According to Professor Muhammed Tabiu, public trust has the following incidents:

1. Recognition of public office as a trust
2. Establishment of trust (amana) as a key societal value
3. Condemnation and crying out against betrayal of trust (Khiyana)
4. Setting clear standards for trustworthiness
5. Institutionalization and enforcement of a mechanism for accountability for trust.
6. Placement of a duty on the people to demand accountability

This template of public trust as set out by the erudite scholar shall form the nucleus of our discussion.

Recognition of Public Office

The starting point of this discussion is for people, aspirants to public office, in particular as well as public office holders generally to recognise in the first instance that the position they are to occupy or are already occupying constitutes a trust. It is the knowledge of this that will eventually dictate the manner and mode of behavior of these people. Do they really appreciate this in their occupation of those positions?, your guess is as good as mine. It is when they recognize this sacred fact that they will be able to dutifully and efficiently execute the mandate given to them.

Regrettably, one’s experience shows that the breaches start immediately after swearing in ceremony. If you recall the wordings of the oath they take, in all instances, it includes the discharge of the function of the office without fear or favour, religious, ethnic or political consideration.This oath mostly ends at the venue of swearing program. Recall Quran, chapter 2, verse 283 when it says: “ ……………. if one of you deposits a thing on trust with another let the trustee (faithfully discharge) his trust and let him fear his Lord. Conceal not evidence; for whoever conceals it, - his heart is tainted with sin and God knoweth all that ye do”. See also Luke 12, verse 47-48. This is another divine command from our Creator to the wise.

Leaders must know that they are largely responsible for not only public aspirations and expectations but equally the preservation, maintenance and sustenance of public resources. In addition, they are expected to be in the forefront of the crusade for the enthronement of trust in public spheres. The leader also has not only corresponding liability of monitoring the trust but exposure of its breach where it comes to his knowledge. He must be at the forefront of whistle blowing as well as raising the red flag where necessary.

 Establishment of Trust as a Key Societal Value

As indicated above, it is not only sufficient for the leader to recognize trust but must be the architect of its establishment as a fundamental value in the society. He is not only ambassador of preservation of trust but equally that person who is central to the actualization and preservation of trust in the Society. He must continuously think of the ways and manner of entrenching trust in the society.

Condemnation of Betrayal of Public Trust

Apart from the role of a leader as a promoter of public trust, where there is a breach of public trust, he is expected to be the voice of condemnation. Where he is in a position to punish such breach, he must not hesitate to do same. His obligation also extends to ensuring that justice is done in all such circumstances of breach. This is the clear message of Allah in Quran chapter 8, verse 27 “O believers, do not betray God and the messenger, and do not betray your trusts while you know the consequences.” See James 4, verse 17 which also alludes to this obligation.

Setting Clear Standards for Trust

The import of this is that a leader must put in place institution and systems that will ensure the maintenance of public trust. This is equally what chapter 2 of our Constitution of Nigeria, 1999, as altered, commands and which in furtherance of that we have today the EFCC ACT, ICPC ACT, PROCUREMENT ACT, the civil law regulating trusts otherwise referred to as “The Law of Trusts” etc. It is equally instructive to note that the existence of the judiciary is not unconnected with this admonition and command. A corollary to the above is the enactment of rules of engagement, particularly in terms of legislation. Thresholds for observance must be set for compliance. This means that offences must be created around issues of breach of trust which currently exists in our various criminal laws and some civil laws. These are the minimum framework for the observance of public trust expected in any society. The challenge however in Nigeria is not so much about laws but observance and enforcement of same. This is the failure of leadership again. Furthermore, transparency must be the watchword of the leaders while platforms for accountability must always be provided.

***Accountability***

A government must be accountable to the people. Accountability is a core characteristic of good governance. When a government is answerable to the people, its actions, policies and affairs will be for the good of the people. Without accountability, good governance is a mirage. It is equally the responsibility of the followers too to demand accountability from their leaders. Quran chapter 3, verse 104 says:

“Let there be among you a group of people who call to what is good, order what is right and forbid what is wrong: these are the ones to attain felicity”.

In fact, in one of the Prophet’s tradition as reported by Abu Dawud, 3775, the Prophet says:

“When people see an oppressor and do not restrain him, God is disposed to encompass them all with punishment”.

It is this price of complacency that we are bearing today. We are such a group of passive and lackadaisical people. The basis of fear and docility in the Country is unexplainable. It is often said that where such fears exist in a system, Democracy takes flight but where the Government fears the people, that is where Democracy lives. An extension of the responsibility of the followers is the rendering of sincere advice to the leaders.

***Transparency***

Government must create an enabling environment for the people to monitor its activities. The government owes the people a duty in this regard. They do not need to ask before the government allows them to see its activities. It is important for the government to keep the people abreast of its activities and, thereby, avoid undue suspicion. All structures must be put in place towards enabling the people to pierce through the activities of the Government effortlessly. For example, advertisement of contract awards as well publication of contract awards must be part of usual practice. Finally in this regard ,as noted in the World Bank document, free and vigilant press is also an important component of good governance which is an umbrella under which public trust and accountability further rests.

Access to Information

To ensure transparency, it is pertinent for the members of the public to have access to information. Here, 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*.

More importantly, in 2011, in order to ensure that the members of the public have uninhibited access to information regarding public offices, the Nigerian government enacted Freedom of Information (FOI) Act. Section 1(1) of the Act provides thus:

*“(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 of the Act makes it mandatory for public institutions to record and keep information on all its activities. It also makes it mandatory for the public institution to disseminate the information and make it readily available to the members of the public.

As lofty as the FOI Act is, a camel passing through the eye of the needle is an easy task when compared to the bottlenecks involved in getting information from public institutions (that is where such is given).

It is also pertinent to note that the States of the Federation have exhibited some reluctance in adopting the FOI Act. This is understandable in view of the fact that transparency and corrupt practices cannot share a bed.

Commenting on lack of access to information as regards the 2016 budget presentation in Lagos State, in the Premium Times of October 14, 2017 with the caption: *In Ambode’s Lagos, Citizens Have No Right to Know Govt. Budgets, Spending”*, Oladeinde Olawoyin noted that:

“*The*[*budget*](https://www.premiumtimesng.com/regional/ssouth-west/220000-ambode-signs-lagos-n812-billion-budget-law.html)*, 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 ratio 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.”[[3]](#footnote-3)

The Premium Times report noted further that:

“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.”

The foregoing Premium Times report illustrates the design of a government that shrouds its affairs in secrecy. Recently. The Media Rights Agenda sued Lagos state Government to court on the applicability of the Act to Lagos State and it won. Shamefully, the Lagos state Government has appealed the judgement. This is regrettable as even without any legislation, the State Government is morally obliged always to render voluntarily the information sought.(For further reading, See Premium Times of November 29, 2017).

Tied to access to information and transparency generally 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[[4]](#footnote-4) and peaceful assembly.[[5]](#footnote-5) 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 undesirable. At best, mere notification to the police should be enough for the purpose of providing security without more. Gladly, several decisions of Court have nullified the prerequisite for such permits.

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.

*Recall and Impeachment*

The people must be able to ask there elected representatives questions. Where the elected representatives are found wanting, there must be measures in place to ensure that the electorate does 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) come 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. My view is that such need not even succeed, it suffices that the legislator involved has been indicted in the process.

Unfortunately, the electorate does not possess similar direct powers over 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.[[6]](#footnote-6) This is why it is crucial to have quality, conscious and independent people at the various houses. They are the bunch that will constitute the check on the Governors and the President.

 ***Responsiveness***

The Government must promptly attend to the queries, questions and issues raised by the people; it must not neglect the people. The fact that the people know the government will respond to their anxiety and worries engenders confidence in the government.

Recall that in describing good governance, We noted that democracy and good governance share similar principles. Having accountability, transparency, participation and adherence to the rule of law are some of the shared principles. The European Union supported paper titled: *Concepts And Principles Of Democratic Governance And Accountability: A Guide for Peer Educators* also identified the following as democratic principles: citizen participation; equality; political tolerance; accountability; transparency; rule of law; regular, free and fair elections; control of abuse of power; neutrality of state institutions; human rights; multi-party systems; and a culture of accepting the results of elections. The essence of all the above is to enthrone good governance based on recognition of public office as a trust. It is when credible leaders emerges that the there can be regard for amana (public trust). If this true, then the route to the realization of this must then be explored, This shall form the kernel of next discussion, which is essentially the Electoral process.

The Electoral Process

It is by the electoral process that the members of society can determine who governs them. The electorate must know that the 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 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.[[7]](#footnote-7)

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. It is not unsual to find nominated candidates of political parties ranging from imbeccile, idiots, charlattans etc, one of which must be elected eventually at the general election. 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 in any election in order to ensure that quality candidates emerges.

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 a change or ensure transparency in the nomination process. Before a country can practice 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 essence of section 87, ***Ngwuta, JSC*** in ***C.P.C. v. Ombugadu [2013] 18 NWLR (part 1385) 66 at 129 to 130, paras. F-E*** where held thus:

“*An army is greater than the numerical strength of its soldiers. In the same Vein, a political party is greater than the numerical strength of its membership just like a country, for instance, Nigeria, is greater than the totality of its citizens. It follows that in the case of a political party, such as the 1st appellant herein, the interest of an individual member or a group of members or a group of members within the party, irrespective of the place of such member or a group in the hierarchy of the party, must yield place to the interest of the party.* ***It is the greed, borne of inordinate ambition to own, control and manipulate their own political parties by individuals and groups therein and the expected reaction by other party members that result to the internal wrangling and want of internal democracy that constitute the bane of political parties in Nigeria.***

***….***

*…It is apparent that a few powerful elements therein hijack the parties and arrogated to themselves right to sell elective and appointive positions to the party member who can afford same….*

*There is a popular saying that politics is a dirty game. I do not share this view. It is the players who are dirty and they inflict their filth on their members and, by implication on the society.* ***Politicians must learn to play the game of politics in strict compliance with its rules of organised society***.” [Emphasis ours]

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 clearly provides that candidates can only emerge through democratic means. In compliance with 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” 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 and they are the people that will respect trust..

It is equally pertinent for the eligible members of the society to exercise their right to vote. As noted earlier, in a democracy, your vote is your most potent weapon through which one truly participates in a democracy. Where voter apathy is the order of the day, achieving good governance, public trust and accountability 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.[[8]](#footnote-8) 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 participate in the process.

Voter education should include informing the citizens of the need to monitor their votes after casting it. Lack of monitoring gives room for manipulations and this alienates public trust and accountability.

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 will be able to 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.

*Pedigree of Aspirants/Candidates*

The people are only as good as the leaders they choose. In order to respect public trust and ensure accountability, it is important 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 that can guarantee the protection of the interests of the people. This requirement extends to other offices. My advocacy is that aspirants without alternative contact addresses must be rejected. The are the class of professional politicians that are ever desperate to abuse office for ant reason. The time is ripe for us to promote the emergence of people with enviable profile.

Conclusion

It is imperative to conclude that public trust and accountability are two basic requirements in any society that desires public growth and progress in its economy, social life and political existence. It is impossible to attain any iota of development where public trust and accountability are lacking. In any society where these two are not existent, the resources of the commonwealth are subject to plunder, the poor are condemned to perpetual want, anarchy prevails under a tyranny of might while the laws of the land only protect the privileged, leaving the masses to squalor. It is the responsibility of the leaders to ensure public trust and accountability while it is the responsibility of the followers to demand and insist on public trust and accountability. It is a double-edged sword that must cut both ways to guarantee inclusive growth.

Thank you.

Dr. Muiz Adeyemi Banire

1. Apology to William Golding in Lord of the Flies [↑](#footnote-ref-1)
2. Muiz Banire, *The Nigerian Law of Trusts*, *2002, Excel Publications. Lagos. Pg. 27* [↑](#footnote-ref-2)
3. See Oladeinde Olawoyin, Premium Times, October 14, 2017 <<https://www.premiumtimesng.com/news/headlines/246096-ambodes-lagos-citizens-no-right-know-govt-budgets-spending.html>> [↑](#footnote-ref-3)
4. See Section 39 of Constitution of the Federal Republic of Nigeria (as altered) [↑](#footnote-ref-4)
5. See Section 40 of Constitution of the Federal Republic of Nigeria (as altered). [↑](#footnote-ref-5)
6. 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. [↑](#footnote-ref-6)
7. 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. [↑](#footnote-ref-7)
8. See the section on voter education on INEC website <<http://www.inecnigeria.org/?page_id=22>> last visited on December 13, 2017 [↑](#footnote-ref-8)