

# Democracy and the Challenges of Consolidation in Nigeria's Fourth Republic

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*With the inauguration of the Fourth Republic on May 29, 1999, Nigeria began a democratic journey that has lasted fourteen uninterrupted years. High hopes and expectations greeted the return to multi party politics in 1998 and consequently civil rule in 1999. Despite a return to civil rule, there are still great doubts over the health status of democracy in Nigeria simply because it is yet to achieve the desired ends which prompted heightened expectations in 1999. This essay therefore critically examines the challenges of consolidating democracy in Nigeria's Fourth Republic. The study argues that sustained poor political leadership has seriously threatened the survival of democracy in Nigeria's Fourth Republic. The absence of good governance explained in terms of defective constitutional arrangement, corruption, economic mismanagement, undemocratic internal party politics, fraudulent electoral system, rule of man as against rule of law and lack of accountability and transparency are the major impediments to democratic consolidation in Nigeria's Fourth Republic. The methodology is both descriptive and analytical. The study suggests that it is imperative to re-write the defective 1999 constitution to accommodate the desires of Nigerians and restructure the present lopsided federal arrangement to truly reflect the diversities and potentials in Nigeria in order to achieve a consolidated democracy.*

**Key words:** Democracy, Good Governance, Democratic Consolidation, Challenges.

## **Introduction**

Great hope and expectations greeted Nigeria's return to multi-party politics and civil rule in 1999 but despite the conduct of four consecutive general elections (1999, 2003, 2007 and 2011), the hope expressed by the people in the democratization process is gradually faltering while the expectations are becoming dashed. Political liberalization and not genuine democratic transition can best describe Nigeria's political landscape since 1999 because of the failure of the process to manifest profound evidence of a growing democracy. As argued

by Gunther *et al.* (1995), democratization process has three phases: the fall of the authoritarian regime, consolidation, and enduring democracy. The process in Nigeria has only so far witnessed the collapse of authoritarian military regimes while consolidating on that has become a serious challenge.

Achieving a consolidated democracy requires good governance by democratic regimes. It also demands upholding democratic values of popular participation, respect for the rule of law, free and fair elections and the independence of the judiciary. Good governance



essentially promotes improved welfare of the people, transparency and accountability by public managers in the conduct of state affairs and reduces corruption to the barest minimum. These correlates of democracy are some of the daunting Challenges democratic governance in Nigeria is yet to resolve particularly in the foundational eight years of obasanjo civilian rule. What militated against the facilitation of true democracy under this administration? What led to the faltering of the initial expectations that accompanied democratization process in the late 1990s? Why was it difficult to consolidate on the gains of the democratization effort that ousted the military from the body politics of Nigeria in 1999? These are some of the questions that this essay attempts to answer.

### Conceptual Clarifications

#### Democracy

Democracy like other social science concepts suffers from the problem of definition. It is not the case that defining democracy is that problematic, but providing a universally acceptable meaning is always the challenge. Scholars have particularly differed on what exactly constitutes the meaning of democracy. Extant literature disagrees on the universality of a definition of democracy. However, Scholars, political observers, analysts and statesmen have emphasized the different aspects of the process. They seem to emphasize the characteristics of democracy than attempt a conceptual definition. It is perhaps, as usefully observed by Enemuo (1999, 144), much easier to identify a democracy than to define it. There is, notwithstanding the disagreement on perception and conception, the consensus that the best form of organizing government in the whole world today is democracy. The obvious reason is that democracy as a concept is now fascinating and inviting to all people and governments, even the most authoritarian. Being recognized as democratic has somewhat soothing effect on regimes and purports a sense of stability. (Olugbose: 1992, Ariyo 2001:186)

According to Huntington (1970) democracy exists where the principal leaders of a political system are selected by a competitive election in which the bulk of the population has the opportunity to participate. Implicit in the definition is the notion of election as a fundamental element of democracy. It equates democracy to election and the electoral processes in which the power of decision and choice rests with the people. Democracy to him revolves round the selective processes through which leaders emerge and ascend to power. This view is further corroborated by Herment Guy (1991):

*Democracy means first and foremost, the real possibility for those who are governed of choosing and unseating, peacefully at regular intervals those who govern them.*

Guy's view reinforces Huntington's stand that election is fundamental in installing democratic regimes and in fact in 'sacking' them where the people no longer have confidence in them. Democracy rests on popular participation of the citizens since the government in the first place is for them and their choice is undeniably paramount. The foregoing echoes Abraham Lincoln's famous definition of democracy as the government of the people, by the people and for the people (cited in Ake, 1992). It should be noted that democracy transcends the conduct of elections and all the electioneering processes. Equating democracy with elections and electioneering activities is systematically undermining the expectations that democracy brings. Though, the selection process provides a form of guarantee and hope in the political process, it does not guarantee the emergence of the desired leadership neither does it provide the assurances of the "dividends" of democracy. This view is aptly captured by Pogoso when she asserted that:

*democracy is based on the principle that public decision is the business of all citizens equally. This means that all citizens must not just be entitled to, but*

*also enabled to participate in public decision making. The question of democracy goes beyond the holding of elections to the realization of democratic principles of governance in practice and to the balance of social forces in the political Community. It is what politicians do when they are in office that counts. (2010:2)*

Political developments in developing countries particularly in the African continent are perturbing because democracy has defiled all definitions even the ones that emphasize elections. Elections in Africa are largely characterized by minority participation and opinion. This has reduced leadership to the expression of the minds and interests of the minority who have held the polity by the jugular. To them, nations are only democratic in as much as they can organize elections into political offices neglecting the substance of the process, the stewardship of the elected and the expectations of the electorates. Many African electorates have lost confidence in the process and have consequently become apathetic to the system, a situation that further promotes the preponderances and ambivalences of political actors (Adebanwi and Obadare, 2011). More disturbing is the attitude of politicians who have found it displeasing to relinquish power willingly even when elections are held and results are not in their favour. They manipulate the electoral process, foment trouble and make their nations ungovernable. This has continued to have unsalutary effects on democratic practice in Africa. Pogoson further plays down the need to over-emphasize the issue of elections in democracy over and above other conditionalities while reacting to the emerging trends of democratic governance in Africa. She argues:

*African technocratic elites have been evasive of a democratic substance (economic development, social security etc) in favour of a democratic form that emphasizes mainly party formation,*

*elections and constitutional engineering. (Pogoson 2010, 4)*

The same point was earlier amplified by Moulin, (1953:10) that a government may practice the techniques of election..... without being democratic and may refrain from holding frequent and systematic elections without departing from the respect which it owes its conscience and the rights of citizens. He further asserts that democracy implies the presence of ethics or a certain public spirit which in particular involves respect for human right of minorities, fair play, descent method, tolerance, observing the rules of the game, a sense of humour and unselfishness. What can be deduced from the foregoing discussion on the conception of democracy is that democracy conjures a process of organizing a political community in which individuals, through popular participation choose their representatives in a competitive medium to enhance and protect their welfare. It presents a distinct platform for elite or leadership recruitment hinged on popular participation of the citizenry and the protection of the interest of the minority. Democracy therefore represents the totality of ideas and ideals, institutions and the processes through which people participate in making decisions that affect them. It presupposes individual's right to economic decision to own the means of production and participate fully in economic activities. It means the right to have access to food, shelter, education, health care etc. In essence, it seeks to ensure the welfare and wellbeing of all and sundry. Pogoson (2010:2) summarizes it thus:

*in its fullest sense, democracy is meaningless without economic, political and social rights. It means nothing to people who cannot eat properly, have a roof over their heads, find a job, send their children to school and have access to primary health care (PHC).*

**Good Governance.**



Discussions on governance have given birth to such twin terminologies as bad governance and good governance. While the former has been argued to be the bane of underdevelopment and societal problems, the latter has always offered a rescue. Governance entails those processes, activities, events and happenings in the society that can enhance (or impede) service delivery. It embraces all of the methods that societies use to distribute power, and manage public resources and problems with a view to enhancing the well being of the people. Distributing power, and managing resources and problems (including conflicts) requires a powerful and overarching state that can mobilize state instruments and apparatuses, check abuses and balance interests. The role of the state in governance process is crucial and therefore requires building institutions that are responsive to and responsible for societal actions. The society is replete with divergent groups and associations, each seeking to maximize its potentials in appropriating power needed to actualize its interests. The state, through governance processes becomes an umpire, an arbiter setting the standards and rules of the game to ensure social order. It is very instructive to note that for the state to assume this position, it must be a creation of the society. That is, the state must evolve from the society and hence should serve the interests of the society since it is set up to perform that role (Olaitan: 1997, 104). The development of any society is arguably tied to an extent to which its government and/or governance is 'democratic' and 'good'. Democratic good governance provides a platform for rapid changes in the socio-economic and political status of nations and their citizenry.

Good governance encompasses all the processes wherein public resources and problems are managed effectively, efficiently and in response to critical needs of the society. According to a UNDP report, effective democratic forms of governance rely on public participation, accountability and transparency (1997:9). It implies effective public administration in relation to

public policy formulation and implementation in the bid to attain high level of economic stability. The Observation of Kofi Anan further lends credence to the underlining importance of good governance when he asserts that:

*without good governance, the rule of law, predictable administration, legitimate power, and responsive regulation-no amount of funding, no amount of charity will set us on the path of prosperity. (UNDP Report, 1997)*

### **Democratic Consolidation**

Literally, the concept means an identifiable phase in the transition from authoritarian rule to civil rule and by extension, democratic systems that are germane and fundamental to the establishment and enthronement of a stable, institutional and enduring democracy. Achieving democratic consolidation therefore calls for the enthronement of democracy as a system of organizing both the society and government and thereafter creates concomitant institutions, culture, ethics, support system and the 'will' that are crucial in making it stable, efficient and responsive. Essentially, arriving at a consolidated democracy requires nurturing democratic values and ethos, principles and institutions in a matured sense that prevents a reversal to a hitherto authoritarian regime. It also rests upon a strong and dynamic civil society whose responsibility it is to check repeated abuses of power hold public officials accountable for their actions and inactions in the management of public resources and also serves to mitigate political conflicts (Diamond 1994:7). Civil society is thus not an end in itself but a means to an end, as Diamond (1994) instructively noted that:

*a vibrant civil society is probably more essential for consolidating and maintaining democracy than for initiating it.*

Democratic consolidation, it should be emphasized, begins with the enthronement of democracy after a free and fair election, and spans through the period

when its probability of breakdown is very low or on the other way round, when its probability of survival is very high. There must then be the optimism expressed by major political actors, all relevant observers and the entire citizenry that the democratic regime can last into a foreseeable future, thereby having the capacity to build dams against what Huntington (1991) would describe as a 'reverse wave'. The question that should at this juncture occupy one's mind is how do we identify a democracy that is consolidated?

Different criteria are proposed in extant literature to identify a consolidated democratic system (Schedler Andreas et.al 1998) but two are discernible in this context. First, there is the 'two-election test' or put differently the 'transfer of power test'. This criterion reckons with the 'behavioural' aspects of democratic consolidation as it questions the attitude of political actors when defeated in an electoral contest. Clearly stated the probability of democratic survival is not high until and unless democratically elected regimes lose elections in subsequent contests and accept the verdict. Democracy is therefore consolidated when a ruling political party or class hands over power to an opposition party after losing the contest. This speaks volume of the readiness of major political players and their supporters to respect the rules that govern the game of electoral contest and their readiness to sacrifice their personal and/or sectional interest for the good of the democratic system.

The second is the "simple longevity" or "generation test". The import of this criterion is that 20 years of regular competitive elections should be sufficient enough to adjudge a democracy consolidated irrespective of the fact that power is not transferred to another political party or class. The criterion argues that continuous and regular elections would have created in people a mind-set that develops apathy for any near alternative to democracy. It is therefore unthinkable for the electorates to explore another method of appointing their leaders. However, the foregoing discussion has evidently demonstrated that

no one criterion or condition is a 'pure type' on its own and that democratic sustainability is a product of a combination of factors or conditions operating together. An accumulation of these facilitating conditions therefore offers the prospects of democratic survival and deepening to be enhanced.

### **The State and the Failure of Democratic Experiments in Nigeria.**

Problematizing Nigeria's efforts at democratization would require a re-examination of the historical events that created the Nigerian entity. The 'forceful and thoughtless' marriage of the Northern and Southern protectorates by the British colonial rule had done more damage than good to the Nigerian society even before the granting of independence in 1960. It can be historically sustained that the Nigerian entity did not exist in vacuum before the British conquest of 1861. Different Nationalities had existed with their respective and distinguishing values, traditions, cultures, norms, and in fact governmental system. These Nationalities had attained different levels of economic and socio-political developments before colonialism truncated such process (Akinboye and Anifowose: 1999, Walter Rodney: 1972). Therefore, to amalgamate such nationalities in a marriage of inconvenience was to anticipate a failed relationship, a relationship which no doubt has been characterized inter alia by mutual suspicion, hatred, deep animosity, violence, sectionalism and ethnic chauvinism till date. Any democratization effort based on this strained relationship has, and is still frustrating any meaningful attempt at attaining full democracy.

The nature and character of the Nigerian state has not helped matters since the Nigerian state started out during colonialism. Colonialism in whatever forms, intends to achieve the twin objectives of exploration and exploitation of the colonized territories. As instructively observed by Young (1988), Colonial Nigerian state was oppressive and authoritarian in its conduct and was not in a position to bridge its alien



and distant nature from the Nigerian people. This, he argued was in line with the general nature of colonial state which sits atop a conquered entity. Unfortunately, local elites that inherited the post colonial Nigerian state continued with the authoritarian and alienating nature of the colonial Nigerian state for the one reason that the state does not evolve from the society and/or consensual agreement of the inhabiting nationalities. Because of the fragile nature of the Nigerian state encapsulated in weak institutional capacities to discharge state functions, political dramatis personae have over time personalized and usurped state apparatuses to the detriment of democratic practice and sustenance. State institutions and apparatuses including the police, electoral bodies, judiciary and political parties have demonstrated their weaknesses and incapacity in ensuring a virile democratic Nigeria as witnessed in the 1964-65, 1979, 1983 and regrettably 1993 elections.

The character of the Nigerian state has been exploited by the operators of state affairs to achieve particularist and sectional interests. Managers of state affairs have often times assumed the position of the state thereby rendering the state paralyzed and in fact subjecting it to their whim and caprice. The situation became more pathetic under military regimes, with their unitary, hierarchical and command nature largely affecting the operation of the Nigerian state. Wale Olaitan (1997:106-107) lends credence to this in his summation of the Nigerian state and the Babangida military regime:

*This essential character of the Nigerian state was properly identified and exploited by General Ibrahim Babangida who ruled Nigeria between 1985 and 1993 under an unprecedented regime of military presidency. To be sure, the notion of military presidency is essentially a loaded authoritarian one.*

Olaitan (1997:105) concluded that the surviving character of the Nigerian state defined by its lack of autonomy, the immensity of its power, its proneness to abuse and the lack of immunity against it, constitutes a road block to democracy.

### **A Balance Sheet of Democratic Governance in Nigeria (1999-2007)**

The death of General Sani Abacha on June 8, 1998 signaled an end to the autocratic rule of the military junta and a realization of the fact that nothing short of a return to civil rule would guarantee peace in the Nigerian polity. The succeeding military regime of General Abubakar fulfilled its promise by arranging and implementing a short transition time table from June 1998 to May 1999, beginning with the writing of a new constitution that would govern the much anticipated Fourth Republic. It is heartwarming to observe that Nigeria's Fourth Republic has had in between it four general elections and nearly four terms of office of four years each with the fourth due to terminate on May 29 2015. Observably, democracy has not lived up to expected standards in the last fourteen years and also Nigerians have particularly not been rewarded with the proverbial "dividends of democracy" as a result of some identifiable challenges that have made democratic consolidation a daunting and herculean task to achieve in Nigeria. This essay contends that the practice of democracy in the foundational eight years of civil rule in Nigeria's Fourth Republic has impeded genuine efforts at consolidating on the gains of the democratization process that led to the fall of authoritarian regimes in 1999. These identifiable challenges are discussed under the following six themes:

#### **The 1999 Constitution and the Legitimacy crisis**

*Arguably defective, the 1999 constitution formed the legal basis for and the application of the federal principles by the Obasanjo's civilian*

*administration which assumed political power on May 29, 1999. A spate of fatal ethnic/religious conflicts and violent demand for restructuring the Nigerian federation graced the arrival of the democratically elected Obasanjo's civilian administration (Adefulu: 2001, 70)*

The above summarized the foundation upon which Nigeria's Fourth Republic was built. While it is true that the constitution is the bedrock of any democratic experiment, such constitution must however emanate from the people. Since Nigeria is a federal state, it follows therefore that inputs into the constitutional making process must be reflective of various interests in the federation. As Wheare (1963:10) instructively reminds us that "by the federal principle, it is meant the method of dividing powers so that general and regional governments are each, within a sphere coordinate and independent". Wheare does not limit the fair sharing of power and values in a federation to only governmental bodies, but also to various interests making up the government and/or the federation. This view was amplified by Jinadu (1979:15) when he usefully observed that:

*This statement of the federal principle is qualified by Wheare's pointing out that it is a principle of organization and practice whose ultimate test is how the federal system operates.*

However, the making of the 1999 constitution was not people centered and in fact, one can argue that the process was stage-managed as part of the expediency of the time to quickly return power to the civilians. The result of the shoddiness in its preparation was seen in the various constitutional crises that pervaded the fourth republic especially under the Obasanjo civilian presidency. Two fundamental problems bedeviled the 1999 constitution and which have serious implications for its legitimacy. These problems relate to the process of evolving the document and of the nature and

character of its writers. First and most disturbing is the criminality of the constitution itself an offence committed by the process or manner in which it evolved. The belief is that if the same offence were to be committed in matured democratic countries the document would have been served a writ of summon to answer criminal charges in competent law court. The constitution lied against itself and the Nigerian people by falsely impersonating the persons of the Nigerian people as if they were responsible for its writing. The preamble of the document reads:

CONSTITUTION OF THE FEDERAL  
REPUBLIC OF NIGERIA 1999

WE THE PEOPLE of the Federal  
Republic of Nigeria:

HAVING firmly and solemnly resolved:

TO LIVE in unity and harmony as one indivisible and indissoluble sovereign Nation under God dedicated to the promotion of Inter-African solidarity, world peace, international co-operation and understanding:

AND TO PROVIDE for a constitution for the purpose of promoting the good government and welfare of all persons in our country on the principles of Freedom, Equality and justice, and for the purpose of consolidating the unity of our people:

DO HEREBY MAKE AND GIVE TO OURSELVES the following constitution: (FGN: 1999, 15)

The reference point in the excerpts above is the emphasis "We the People". The document was loudly affirming the process under which it was given birth as if referring to the same process which produced the American Constitution in 1778 in which peoples of diverse interest, values, and origin but with same aspiration and orientation met in San Francisco to deliberate and give to themselves a document which truly represents their ideas of a system of government, yearnings and aspirations. Surprisingly, the emphasis in the excerpts denoted by the words written in capital letters received much attention as if they truly happened. The 1999 constitution is not more than a



document hurriedly put together by a selected few largely dominated by political and economic interests 'appointed' by the military government to meet the exigencies of the transition programme not minding the socio-political implications of the process for democratic governance. The document was assembled without a referendum which is a minimum requirement for amassing the consent of the citizenry over crucial national issues. The people whom the constitution was meant to govern were therefore short-changed in the process. Second and more critical is the military factor in the writing of the constitution. The question that rattles one's mind is whether the military which in itself is democratic can guarantee a 'genuine' constitution to govern democratic regime? It is a common phenomenon that the constitution suffers the first casualty whenever the military strikes. The military demonstrates so much hatred for constitution such that it suspends its provisions immediately it takes over power and rules with the unitary, hierarchical and command nature and character of the military institution.

It was on this basis that the 1999 constitution was promulgated by the Abubakar military regime. The constitution and its provisions left unanswered many critical national questions including an acceptable revenue sharing formula among governmental structures, the Niger-Delta agitations, the structure of the Nigerian federation and religious matters.

### **Electoral Process and Power Transition Debacle**

Elections in Nigeria's Fourth Republic may best be described as precarious, a situation that has left many Nigerians shun the polling booths on many electoral occasions. Since the inception of the present republic, four general elections have been concluded. The four general elections have been conducted under unfertile atmosphere because of the absence of enabling conditions for democratic participation which of course is the greatest obstacle to democracy as Ake (1996:11) argued. The Prebendal and predating nature of

Nigerian politics (Joseph, 1991) has turned electoral competition into warfare among political elites which can no longer be regulated by the constitutive rules of the game. The soft and weak nature and character of the Nigerian state has reduced electoral contests to the battle of the strongest and the potentialities of who holds the instruments of the state. The state became a tool in the hands of political elites to achieve sectional and particularist interests. Politicians have tagged elections a "do or die affair" going by the words of former President Olusegun Obasanjo of the Peoples Democratic Party (PDP) in 2007. All sorts of dastardly acts are perpetrated by Nigerian politicians in order to win elections at all cost. Ashiru Dele (2009:101) aptly summarized the electoral process in Nigeria's Fourth Republic thus:

*Apart from the violent nature of our electoral competition, the contestants for state power also try to undo or outdo one another using all shades of electoral malpractices such as recruiting juvenile to vote, detaching ballot booklets, duplicating ballot papers, vandalizing voter materials, stuffing of ballot boxes, and outright intimidation of opponents as well as falsification of electoral results.*

It is instructive to state that these anti-democratic behaviours exhibited by politicians before, during and after elections in Nigerian vitiate the sanctity of the elections and also blemish the democratization process. The electoral behaviour manifested in the Fourth Republic has called to question the legitimacy of all regimes that have been enthroned in the republic. Electoral practices that are antithetical to democracy are often promoted in Nigeria, calling to question the basic tenets of democracy including free, fair and credible elections in Nigeria. Elections, we should note, are free when they are not characterized by violence and disruption of any kind and when there is peaceful and orderly environment conducive for all participants



in the process. Elections are also free when electorates are independently allowed to choose candidates of their choice without any fear of intimidation or harassment. Elections are regarded as fair only when the umpire, the electoral body treats all contestants with equality and also provide a level – playing ground for all to compete. However, experiences in Nigeria have shown that election credibility has no correlation with legitimacy. A reported statement by a one-time Deputy Premier of the Western region of Nigeria chief Fani Kayode that “whether you vote for us or not, we will remain in power” (Dudley, 1973:42) cruelly depicts the extent to which elections can be personalized in Nigeria. Critical minds may wonder that since the politicians are not military that would secure power by force through the power of guns, how would they capture power to remain in government as boasted? Yoroms Gani (2007:107-110) provides a useful answer when he argues that electoral rigging is a sophisticated weapon in the hands of politicians into which various aspects of anti-democratic activities have been concretely built including:

- (1) Providing counterfeits ballot box, ballot papers and voting cards.
- (2) Vote buying: giving money to voters to vote for particular party and/or candidate(s).
- (3) Buying off of the electoral officers and party agents to manipulate the results for a particular political party or candidate(s)
- (4) Changing of the figures of result counted at polls or collation centres in favour of political parties or candidates
- (5) Replacing genuine ballot boxes with fake ballot boxes containing illegal voters' cards.
- (6) Stealing or mutilation of electoral materials to avoid the conduct of the election.
- (7) Inciting or causing violence at the polling units and/or in the course of the election so as to threaten voters from voting or for

the election or the result of the election to be cancelled.

- (8) Attempts by the electoral officers to share votes cast in election among political parties.
- (9) Giving of wrong information to the voters on the dates of the election or voting procedures (so) as to misguide them to vote for a party which is not of their choice; and
- (10) Creating fear, intimidation and threatening the voting atmosphere

All of the above have detrimentally eroded the legitimacy of electoral outcomes and in fact have resulted into uncontrollable electoral violence. Haruna Mohammed observed of the 2007 elections thus:

*For the first time in Nigeria's electoral history, the electoral commission conducted election without proper voters register as stipulated in the electoral act. Second, the ballot papers used in the elections had no serial numbers again as stipulated by law. Third, in far too many cases, results were announced even before the polls had closed. Four, in many cases results were unsigned, unstamped and undated. Five, there were no provisions for secret balloting, which is a universal and basic requirement of freedom of choice. Six, electoral violence characterized by ballot snatching and voter intimidation among other things were wide spread especially in the south-south and south east. Seven, the electoral commission did not provide indelible ink for thumb*



*printing the ballot papers as stipulated by the law (The Nation, 2008: 40).*

It is therefore not surprising that many aggrieved parties and/or their candidates beseeched the courts to seek redress after the elections. According to Justice Umaru Abdullahi, former president of the court of Appeal, a total of 1,475 petitions were received as against the 570 received in 2003, (Ashiru: 2009, 105). This performance explains the role of the electoral body in the conduct of the elections. The electoral institution demonstrated its weakness, incapacity and lack of readiness in overseeing the 2007 elections. Sadly too, the electoral institution and its officials have been accused as accomplices in various malpractices and fraudulent acts that have been recorded in the Fourth Republic. Court litigations dented democratic consolidation in the Fourth Republic a serious and unsalutary blow as many political office holders especially at state and local government levels were sacked by court judgments and replaced by the 'rightful' candidates. Instances are those of Edo State where Comrade Adams Oshiomole of AC (later ACN and now APC) replaced Prof. Osunbor of the PDP in 2009, Ekiti State where Dr. Kayode Fayemi of CAN (now APC) replaced incumbent Segun Oni of the PDP in October, 2010, Osun State where Engr. Rauf Aregbesola of the ACN (now APC) replaced Prince Olagunsoye Oyinlola of the PDP in December 2010 and the various cases of mandate cancellation and re-run elections ordered in States like Cross-River, Kogi, Sokoto, Delta and Bayelsa. The legal tussles, as means of resolving political crisis resulting from elections have further dampened the hope and expectations of democratic performance in Nigeria's Fourth Republic, because they have truncated democratic calendar as elections would henceforth hold non-simultaneously across the country, while managers of state affairs abandon government responsibility of providing for the security and welfare of the citizens to pursue controversial mandates in law courts.

### **Rule of Law, Human Rights and Constitutionalism**

It appears evident that democratic governance in the Fourth Republic especially under Obasanjo civilian administration was largely affected by the personality of the ruler (Chief Obasanjo) who reached the pinnacle of his military career as a General. The military institution being what it is is highly characterized by command, hierarchical structure in which rule or government is personified by the supremacy of the arrow head. These same qualities General Obasanjo demonstrated under a civil government such that analysts and political writers euphemistically called his administration that of 'Militicians' (Jega 2007; Momoh 2007) while his style of leadership is referred to as 'garrison' democracy' (Bako, 2007), 'authoritarian democracy' (Momoh, 2007) or "civilian dictatorship" (Sani, 2008).

The Obasanjo civilian administration found itself engulfed in many constitutional messes and abuses that were reminiscent of the Abacha military junta. The Fourth Republic witnessed several incidences of arbitrary use of power by the political leaders without recourse to constitutional dictate and provisions. The first in these series which further fuelled regional terror and agitation was the method adopted by the Obasanjo administration to resolve the age-long Niger Delta crisis. Realizing the need to promptly intervene in the polymorphous violence in the Niger-Delta with its attendant heavy economic losses and human casualties (Yagboyaju: 2010, 73), Obasanjo chose a military and confrontational method to address the restiveness instead of a more consultative and conciliatory approach expected by stakeholders and many observers. The resultant effect of this approach was not only unsalutary but very devastating as the federal government's Joint Task Force (JTF) massacred the Odi Community in Bayelsa State in year 2000 leading to a huge loss of property and death of hundreds of people, mainly women and children (Yagboyaju, 2010).

In another dimension, the judiciary in the fourth republic was carpeted and disregarded with impunity by the all-powerful executive who saw itself as superior to other organs of government. While the constitution is an essential impetus for democratic governance, conforming to its directive was a major challenge in the period under review. Several judicial pronouncements were disregarded, court orders flouted with contempt while selective justice pervaded the entire polity. Two cases summed up the place of the rule of law under the Obasanjo civilian administration. First was the case involving the federal government and the Lagos State government under the governorship of Bola Tinubu over the creation of local government councils. The 1999 Constitution of the federal republic of Nigeria vested in the states, the power to create, control and supervise local government councils with only the power of approval vested in the National Assembly. The Lagos State government had explored this constitutional provision to create additional local government areas only for the 'almighty' Obasanjo federal government to instruct a reversal of such move. Other States involved had immediately reversed their actions simply because they were under the control of PDP governments, Lagos State government insisted and relied on the strength of the constitutional provision backing its action. Consequently, the federal government controversially withheld allocations meant for local governments in Lagos State since 2004. Despite Supreme Court rulings favouring the Lagos State government and an order mandating the release of the funds to the State government, the federal government arrogantly disregarded court decisions and pronouncements. This evidently contradicts the imports of a constitutional government (Anifowose: 1999, 168; Friedrich, 1968). The funds were only to be released by the succeeding Umaru Yar'adua administration two years after the court decision.

Second was the attempt by President Obasanjo to stop his erstwhile deputy, Atiku Abubakar from contesting the 2007 Presidential election on the ground

that the latter had scuttled the former's bid to mischievously manipulate the constitution and elongate his tenure to realize his third term ambition as the President of Nigeria. Atiku Abubakar, and other critics in the PDP and opposition groups had challenged the constitutionality of Obasanjo's third term bid, only for Obasanjo to arbitrarily ambush the political fortunes of his perceived opponents including senator Rasheed Ladoja who was impeached as Oyo State governor, Rotimi Amaechi who lost the Rivers PDP governorship ticket, Atiku Abubakar who had defected to the Action Congress (AC) having been barred from contesting for the presidency under the ruling PDP.

There were other cases of abuse and violation of the rights of ordinary Nigerians especially critics and members of the fourth estate. For instance, Gbenga Aruleba and Rotimi Durojaiye of the African Independent Television (AIT) and Daily independent newspaper respectively, were arrested, detained and later prosecuted for reporting the controversial purchase of the fairly used presidential airplane by the Obasanjo administration (Yagboyaju: 2010, 701). Yagboyaju summed up the Fourth Republic with regard to the rule of law thus:

*In spite of the return to civil rule and its anticipated features like the rule law, respect for human rights and dignity, and observance of due process, there were still evidences of arbitrariness and other illegal activities. These combined to cause several unnecessary deaths and also generally endangered lives and property under the Obasanjo administration. And in accordance with our focus here, all these elements exacerbated the perennial governance crisis, which also hindered national cohesion and sustainable development till the end of the Obasanjo administration.*



Governance crisis will prevalently manifest where constitutionalism is thrown in the dustbin and where there are no restraints on the exercise of political power. Government in the Fourth Republic especially from 1999 to 2007 was not based on rules rather on whim and caprice of political leaders.

### **Legislative – Executive Frictions**

The legislature was a premature institution, largely inexperienced at the beginning of the Fourth Republic in 1999. This was because legislative functions have been scrapped since the military comeback of December 1983. Thus, the nation had to wait for another nine years for a new legislative house to be inaugurated. Sadly too, this house only lasted for two years before it was again suspended by the Abacha military junta after overthrowing the Shonekan Interim National Government. Again the nation waited for six years to witness another legislative business. But in contrast, the executive always retains its status whenever the military strikes and on many occasions combined the legislative duties. The point to make here is that legislative and executive responsibilities are usually fused and discharged by the executive branch of government whenever the military takes over power. This act has undoubtedly institutionalized a system and culture of government that is extremely executive-centered. The unequal development of the two branches of government has given birth to an overdeveloped executive in terms of powers and responsibilities.

Notably executive-legislative friction is hinged on psychological clashes within the context of the struggle for prestige and influence (Aiyede, 2006). The leadership of the two branches clashed severally over the interpretation of the constitution relating to who holds the ultimate power. This is cheer personality or psychological struggle rather than constructive constitutional engagement. Both arms of government jettisoned constitutional arrangements to engage in supremacy battle thereby leaving the judiciary as the final arbiter in such instances. It is instructive to mention

that part II, section 4 of the 1999 constitution expressly provides for the powers of the Federal Republic of Nigeria. With respect to the legislative powers, subsection (1) provides that:

*The legislative powers of the federal republic of Nigeria shall be vested in a National Assembly for the federation which shall consist of a senate and a House of Representative (FGN: 1999 P.16).*

By the same token section 4(2) puts it that:

*The National Assembly shall have power to make laws for the peace, order and good government of the federation or any part thereof with respect to any matter included in the Exclusive list set out in part 1 of the second schedule to this constitution (ibid).*

Chapter VI of the same constitution provides for the creation of an executive branch which responsibility it is to administer the day-to-day affairs of the nation. There is therefore no plausible reason, with the above provisions, for any rift or friction between the legislature and the executive over the constitution but for the interpretation and application of the provisions. The friction often develops over the applications of the provisions relating to the use of impeachment as a legislative weapon and the “veto power” as an executive armoury. The legislature had excessively resorted to the application of section 143 (1) and (2) of the 1999 constitution which relates to the impeachment of the executive headed by the President. In fact, the preponderance of impeachment and the threats of impeachment appear to be unprecedented in the history of any democratic nation. Thomas (2008) reminded us that in both developed and developing democracies such as United states of America, India, Germany, Iran, Philippines, Romania, Taiwan, Australia, Brazil, Russia etc where Presidential democracy is in vogue, the impeachment clause is rarely used and when

used, the object in to safeguard both people and national interests. It also promotes integrity and morality in governance. In Nigeria, especially in the Fourth Republic, impeachment of public officers has been a frequent phenomenon with a devastating effect on our political and development process. Oni Michael (2010:1) puts it thus:

*A survey of literature reveals that to date (from 1999) in Nigeria, not less than 25 speakers, 10 deputy speakers, 5 Governors, 10 deputy Governors and two senate presidents were impeached while president Olusegun Obasanjo and his vice, Atiku Abubakar also survived several impeachment moves.*

Although, legislative officers have also been affected by the spate of impeachment in the Fourth Republic, the process was not completely devoid of executive manipulations. And where the executive is concerned, what amounts to "gross misconduct", the ground on which the executive can be impeached has never been concretely proven. It can be suggested therefore that impeachment has largely been a political affair to settle scores rather than a constitutional matter. For instance, the Senate under Dr. Chuba Okadigbo had in year 2000 alleged the following discrepancies in the execution of the 1999 supplementary appropriation Act, an act that contravened section 81(3) of the 1999 constitution:

1. Over spending by 200 Million Naira for the furnishing of the new wing of the Federal Secretariat, Abuja.
2. Diversion of 154 million Naira meant for capital projects to fighting cultism in higher institutions of learning.
3. Diversion of 2 billion Naira meant for rehabilitation of roads and inland waterways, to the completion of 2000 houses in Abuja and Port-Harcourt (which were not budgeted for).

4. Expenditure on Lake Chad Commission and Niger-Delta Commission not provided for in the Act.
5. Acquisition of 2.7 billion Naira houses for Public Officers not provided for in the Act.
6. Diversion of 2.7 billion Naira houses for rehabilitation and completion of sewage treatment plants and other facilitations in Abuja.
7. Refusal to implement the input of the National Assembly into the Act (The Comet: 2000, 25).

One critical question that perplexes one's mind is that are these allegations not enough to constitute "gross misconduct" on the part of the executive? The foregoing therefore affirms as earlier argued that legislative-executive friction has little to do with constitutional misunderstanding or misinterpretation, rather it is a fallout of the politics of struggle for prestige, influence and control over who takes what, when and how?

### **Political Parties, Internal Democracy and Leadership Selection**

Nigeria's experience with political parties which dates back to the colonial era shows that inter and intra-party squabbles are major challenges confronting the development of political parties. These squabbles, according to Azeez Olaniyan (2009:53), assume different forms such as factionalization and break-away, verbal attack and physical violence. All of these demonstrable features characterized parties of the first, second and third republics. However, Azeez (2009) records that:

*Perhaps no other republic exhibited intra and inter-party squabbles more than the current fourth republic. It has recorded bitter and acrimonious struggles within parties as well as violent inter-party relations.*



The Fourth Republic recorded high level of factionalization as witnessed in previous republics. Inter-party squabbles in the Fourth Republic greatly manifested in factionalization of the parties and the subsequent break away of many factions either integrating with other existing parties or outrightly establishing new ones. This has also led to the frequent changes in the names of many political parties and an increase in the spate of cross-carpeting in the legislative houses both at the national and sub-national levels. For instance, only the Peoples Democratic Party (PDP) has retained its root name out of the three parties registered in 1998 to contest the 1998 General elections. The others, All Peoples Party (APP) had metamorphosed into the All Nigerian Peoples Party (ANPP) while the Alliance for Democracy (AD) had disintegrated into many factions out of which emerged the Democratic Peoples Alliance (DPA) of Chief Olu Falae, the Action Congress (AC) which later changed to the Action Congress of Nigeria (ACN) led by Asiwaju Bola Tinubu. However, some party members still retain the root name Alliance for Democracy (AD). It is useful to note that the PDP has been able to hold its house and retain the name because it has been the party controlling the centre since the inception of the current democratic experiment in May 1999. The party, has however, had its own fare share of internal squabbles at various times leading to the breakaway of many factions and individuals including former Vice President Atiku Abubakar in 2007, former national Party Chairmen Audu Ogbe and Dr. Nwodo. The polarization of Fourth Republic's political parties into different camps and factions, and the inconsistencies of party labels and/or names have had implications for political development, national ideology and democratic sustenance. Inter and intra-party squabbles have also resulted in various physical violence and killings of many party stalwarts including party standard bearers or would-be bearers in general elections. Among these were the crisis that erupted in Anambra State leading to the abduction of the erstwhile Governor of the State

Dr. Chris Ngige in 2005, by his godfather Chris Uba, the crises that greeted the impeachment of Senator Rasheed Ladoja of Oyo State in 2005 believed to be master-minded by his godfather Chief Lamidi Adedibu, the assassination of Harry Marshall while campaigning for the ANPP after decamping from the PDP, the killing of Chief Ajibola Ige, a serving Attorney-General and minister of Justice who was a member of the AD but serving under the Obasanjo-led PDP government, the gruesome, inhumane and callous murder of Chief Funso Williams in Lagos state and Dr. Ayo Daramola in Ekiti State, both of whom were vying for the governorship seats in their respective states. The deleterious effect of inter and intra-party squabbles in the Fourth Republic has continued to threaten democracy in Nigeria .

#### **Economic Mismanagement and Corruption**

The great hope and expectations that greeted the return to civil rule in May 1999 may not be unconnected with the desire for an improved economy which in turn will guarantee a change in the quality of lives of mass of the populace. The long military rule and the attendant poverty, hardship and an unprecedented level of corruption have brought Nigerians to a hopeless and helpless situation such that the mistakes of the Abdulsalam transition programme were never sources of concern. But it is sad to observe that peoples' expectations of a better hope and opportunities have long been dashed even before the expiration of the second term in office of President Olusegun Obasanjo. It was expected that in the Fourth Republic especially between 1999-2007 Nigerians per capita income would increase tremendously, production diversified away from oil, poverty reduced to the barest minimum, economic opportunities provided for self development while at the same time ensure environmental sustainability. Available statistics showed that these expectations were mere wishful thinking given the way and manner Nigerian economy was managed during the period under review. Given the abundance of both



human and material resources, it is incontrovertible that Nigeria is the toast of many nations and a business haven for many investors, but sustained poor political governance has hindered any meaningful economic development. A perceptive observer notes thus:

*No doubt, Nigeria is potentially Africa's largest economy. Every year, the country produces over 200,000 graduates of tertiary institutions (including 93 universities both public and private ones), has the 6<sup>th</sup> largest gas reserves in the world, tenth largest oil producer; with abundant but largely untapped natural resources- gold, limestone, among others and with 60 percent of its arable land lying fallow (Ojo:2009,209).*

With this staggering revelation Nigeria indeed has no business being poor. Despite the abundance of human and material deposits in the most populous black nation of the world, the country and its people still wallop in abject poverty manifesting greatly in high levels of unemployment, falling health and educational standards and poor economic financing. The lingering poverty problem can not be dissociated from poor economic management and absence of transparency and accountability in government. In another frightening revelation by Dr. Magnus Kpakol, Senior Special Assistant to the President and National Coordinator of National poverty Eradication programme ((NAPEP):

*The number of poor Nigerians could be put at an estimated figure of 70 million .... In 1980, the figure was 28.1 million; 1985, 46.3 million; 1992, 42.7 million; 1996, 65.6 million and 1999, 70.0 million; 2004, 54.4 million (Ojo 2009, 211). He continue, undoubtedly, something must be wrong somewhere, for a critical official poverty statistics which revealed that over half of*

*Nigeria's 150 million population are poor is unexplainable going by the abundant – human and material resources in the country. The economy is gloomy that 2007/2008 United Nations Development programme (UNDP's) Human Development index, HDI, ratings placed Nigeria at 158<sup>th</sup> position out of 177 Countries (ibid). No doubt, democracy is endangered in Nigeria more than ever before. Poverty, want and squalor are anti-democratic forces in the polity.*

Poverty has translated into many social misdemeanours and high-crime rate by both graduate and non-graduate unemployed youths. This act, more than anything else threatened the survival of democracy in the Fourth Republic. It also re-affirms Prezeworski's position that once a country has a democratic system, its level of economic development has a very strong effect on the probability that democracy will survive (1996:39-59).

It is indeed pitiable that Nigeria's economy shows an abysmal growth despite tremendous increase in oil revenue and an overbloated foreign reserve, which serves no good for the domestic economy. Nigeria went down to an abysmal 157<sup>th</sup> position out of 177 countries in 2007, from 148<sup>th</sup> out of 173 countries in 2003 according to the UNDP's Human Development indices (HDI). Again, the country's Human Development Index of 0.453 in 2005 was lower than the average index of sub-Saharan Africa which stood at 0.515 and thereafter was rated as 13<sup>th</sup> least viable country of the world.

One major challenge that has confronted Nigeria's drive for economic development is the monster called corruption. Government accountability, transparency and service delivery have been deleteriously affected by corrupt practices especially among public office holders. As aptly captured by Ojo, (2009, 215), corruption under the new democracy has been

pervasive, open and shameless. In fact, the power sector crisis, fingered for stunning the economy, owed largely to the misappropriation and embezzlement of government investments in the sector. The Nigerian Compass reveals this much (in its Editorial) when disclosing the outcome of a House of Representatives Committee on power, which probed the power sector. The probe further reveals that Nigeria generates less than a pitiable 1,000 megawatts compared to South Africa, a country of 42 million people, which generates over 42,000 megawatts. The editorial sums it up thus:

*Much of Nigeria's investment in the power sector has been enmeshed in corruption and enthralled in the lust of the political elite for primitive accumulation.*

### **Conclusion: Towards a Sustainable Democracy**

The proposals on evolving an enduring and sustainable democracy in Nigeria are large and growing (Ogundiya, S.I., 2008; Animashaun, M.A., 2008; Yagboyaju, 2009; Adefulu, 2001; Yagboyaju, 2010; Olaitan, 2001; Ogundiya, Olutayo and Amzat, 2009 etc). However, this essay advances proposals that are considered germane in consolidating democracy in the Fourth Republic since it is imperative to avoid any reversal to the autocratic military regimes of the past. An important point to note is that the survival of democracy is positively and strongly tied to the strength of the state in coercively manifesting the properties of statehood. There is no denying the fact that the Nigerian state is fragile, weak and/or soft with overdeveloped structures without commensurate functions.

Although, the 1999 constitution expressly provides for the social contract in what is known in the constitution as the fundamental objectives and directive principles of state policy, its justiceability is what provokes dissatisfaction which a Peoples constitution will necessarily address. By the Peoples constitution, it is meant a constitution, which process and contents

are driven by the desires, expectations and ideas of the people rather than one that was hurriedly authored by the short-lived military government of retired General Abdusalam Abubakar. What this suggests is simply that it is imperative to re-write the 1999 constitution through a Sovereign National conference in order to consolidate Nigeria's democracy. The Sovereign National conference should, as a matter of fact, be insulated from political interference and/or influence else what will be produced from such conference would be a teleguided constitution that will continue to recycle the perennial crises that have attended critical national issues in the past.

One critical issue that is expected to dominate discussions in the conference is the way and manner to evolve a practicable federal system of government. A major defect of Nigeria's federal structure is the process of negotiating the contents of the structure and its application. Whatever finds its way into a federal structure must be negotiated by the people, through compromise and consensus, and this must be guaranteed in a written constitution.

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