

## **THE ETHICO-POLITICAL IMPLICATIONS OF LEGITIMACY CRISIS ON DEMOCRATIC GOVERNANCE IN NIGERIA**

**Maraizu Elechi, PhD & Jaja, Ibifuro Robert**

Department of Philosophy

Rivers State University

Port Harcourt, Rivers State, Nigeria

Email: drmaraizuelechi@yahoo.com

Phone: 08038954871

### **Abstract**

Legitimacy is a virtue of political systems and governments. It is integral to the defining lineament of democracy and democratic governance. The demand for legitimacy has increased as democracy gained traction over the years in Nigeria. Although Nigeria practices democracy, it faces a lot of legitimacy crisis resulting in a lack of support and obedience, and in most cases, an outright rejection of government and its authorities by the citizenry. The implications of these are that it poses a great danger to the political system and society in general as the citizens often resort to protests, civil disobedience, lawlessness, and crime. The inability of the leaders to gain the acceptance of the people also slows down the pace of development and growth of the country because the absence of legitimacy does not create the political atmosphere for citizens' participation and exchange of ideas, which are crucial for national development and citizens' happiness. This paper, therefore, adopts critical and analytic methods in appraising the concept of legitimacy to expose its significance in a democratic regime. It provides explanations and solutions to the severity of the legitimacy crisis in Nigeria and contends that legitimacy, which is the people's mandate to govern is an essential moral requirement that validates authorities and governments. In conclusion, the paper proposes that Nigerian leaders should earn legitimacy by constitutional democratic means whereby the exercise of power will reflect a genuine justification of the mandate of the people for them to govern.

**Keywords:** Legitimacy, legitimacy crisis, national development, democratic governance, citizenry

### **Introduction**

Legitimacy is the moral foundation for political power and authority. A legitimate government can be a *de facto* government and a *de jure* government. This means that a legitimate government can be derived in two ways as mentioned above. A *de facto* government is a government that is legitimized not only by the people's consent but also by the lack or absence of opposition in the government. Lack or absence of opposition in a government is understood, politically speaking, as implied consent and as such considered as constituting political legitimacy. The role of the opposition in a government

cannot be underestimated especially in leading constructive and unbiased criticisms against a government in power. The main benefit of which is for the potent and timely delivery of the requirements of good governance to the people much more than showing that the government in power is failing or has failed. *De jure* government, on the other hand, is government by law, which is a legal government, that is, a government of law and by law, which is equally a legitimate government. This means that legitimacy can be conferred by the people as well as by law. A democratic government, for instance, is the only form of the political system that can be characterized as both *a de facto* and a *de jure* government at the same time. This is because it is founded on the people's consent and equally based on the rule of law. A genuinely democratic government is formed based on mutual respect for the human person, majority rule, and a high sense of responsibility and responsiveness to the people. (Nnamdi 36-37). This is why democracy is aptly defined as the 'power of the people'. In his reflection on democracy as it relates to the consent of the people, Elechi's records that,

It is now regarded as a form of government in which the people rule themselves either directly or indirectly through their representatives. It is a political system in which the eligible people in a polity or society participate actively not only in determining the kind of people that govern them but also in shaping the policy out-put of the government. This means that democracy anchors its authority on the express will of the people. Consent and participation of the governed are therefore essential in a democracy, its understanding, and practice (166).

Legitimacy brings about a peaceful atmospheric condition for governance because such government is accommodated by cooperation, mutual participation, and mutual exchange of ideas to bring about better living conditions in the state. The fact is that government is complemented by followership and followership presupposes the consensual relinquishment of individual powers to a group of persons granted the authority to make binding decisions in a civil society. Hence, legitimacy as a virtue of political systems emanates from followership. It lies at the heart of all political discourses and determines much political competition in both developed and less developed societies (Clement,15). The efficacy of power and authority exercised in any system of government is hinged on legitimacy, given that the privileges and rights of political office holders are not arbitrary, but conferred upon by the followers. Legitimacy is the basis of stable government: all governments seek legitimacy. How they achieve it and keep it is essential to the study of a democratic political regime. According to Nnamdi, the government can be said

to be legitimate when it is willed by the people it governs, which can be achieved only in a voluntary agreement. The issue of agreement here strikes the thought that legitimacy is like a social contract by which the basis of political power is founded and derived on the agreement, consensus, or consent of the citizens. Miller records it thus: “At the heart of social contract theory is the idea that legitimate government is the artificial product of the voluntary agreement of the moral agent – that there is no such thing as ‘natural’ political authority” (478-9).

The democratic system of government has no doubt gained traction over the years because one of the essences of democratic theory is the legitimate governing authority (Scharpf 6). This is as a result of the rule and consent of the majority. One can argue that the seeming legitimacy of authorities in a democratic system of government is one of the reasons the democratic system of government has gained popularity over the years. For Locke, the consent of the majority (representative of the whole) which is a feature of legitimacy is foremost to democracy. According to Dahl, democracy and legitimacy are inextricably connected. The relationship between legitimacy and democracy is such that a democratic government must be legitimately derived from the people and the rule of law. It is the people that grant the right to rule if such a government is to be considered legitimate. Such right or mandate to rule must be grounded in the common good and shared moral evaluations (Gilley 5). An agreement, consensus consent, and participation are therefore preconditions for true and valid legitimacy. Consent is therefore understood as a concrete and practical endorsement or acceptance which is demonstrated through a voluntary and continued participation of the citizen in the public affairs (Nnamdi 23). Hannah Arendt records that,

... we may say that consent, not in the very old sense of mere acquiescence, with its distinction between rule over willing subjects and rule over unwilling ones, but in the sense of active support and continuing participation in all matters of public interest... (85).

A system that is based on the consent and participation of the people guarantees a legitimate government. However, it appears the Nigerian situation holds otherwise. Nigeria practices a democratic system of government yet faces legitimacy crises. In the exercise of power, Nigerian political office holders disregard the fact that power is limited by the sovereignty of the people and the claim of consensus. The questions, therefore, are: how did a democratic state like Nigeria come to face a legitimacy crisis? What are the effects of the legitimacy crisis on Nigeria’s democracy? This paper shall attempt to critically answer these questions and

subsequently make recommendations to solve the legitimacy crisis faced in Nigeria.

### **Conceptual Discourse of Legitimacy: The Right to Govern Democratically**

The prominence of legitimacy in a regime and political discourse in general spurs the urge to carry out a conceptual discourse on the concept and to unravel its significance in a state. Derived from the Latin word *legitimus*, meaning *lawful*, *legal*, and *legitimate*, its definition has changed constantly and is used in a wide range of different contexts (Delbruck 2-3). Here, legitimacy will be seen as the right to democratically govern. Legitimacy as the right to govern assumes that consent plays a major role therein (Cutis 10). To fully grasp this, a clear understanding of the term *right* is necessary. Right is the freedom or entitlements accorded individuals based on natural laws, the legal system, or social convention. The right to govern is not natural, it is borne out of a social convention. It is the governed that confers on the governor this right. This is the case in all systems of government including the monarchical system of government where political power is inherited. The rights, immunity, and authority of a monarch are not natural as it always seems. It is bestowed by the people who have given their consent to be ruled by a particular lineage that gives a monarch power. Monarchs can lose their power if the people withdraw their consent. There are several instances of abolition or revolution against monarchs that give credence to this claim. For instance, Napoleon III, the last monarch to rule France was overthrown and the monarchical system of government was replaced with a republican government as the French lost faith in their monarchy.

It is important to note here that rights have limitations including the right to govern. The right to govern although gives governments the authority to make and enact binding decisions, it is not without boundaries. Political authorities are expected to express the rights of governance within the dictates of the constitution (written or unwritten) or claim of consensus. The governmental rule is made rightful, both in its claim to authority and in its exercise of authority (Fredrick 3-25). When public office holders act in discordance with the constitution or the consensus in their claim to authority or their exercise of it, the regime is faced with a legitimacy crisis. If the right to govern is a social construct, that means, it can be deconstructed. That is to say that the right to govern is not abiding, but susceptible to change. A regime can have legitimacy at one point but lose it at some point. For instance, Robert Mugabe's regime in Zimbabwe had legitimacy when he was first elected president in 1987. However, his regime in the later years faced a legitimacy crisis as opposed to his *sit-tightism* (a refusal to leave office, after his tenure elapsed) grew until he was ousted from office in a coup. Legitimacy emanates from the people and the law. Hence, it serves as a check on the powers of any

regime, including that of monarchs. Today, the constitutional monarchy has gained traction, as the popularity of the notion of the absolute monarchy declined substantially after the French revolution, which promoted theories of government based on popular sovereignty.

For, to each right corresponds a duty (Cutis 11), the right to govern is not different. In the right to govern, the duty goes two ways: the duty of the government and that of the governed. The government has to rule while the people have to obey. The people complement their consent with civil obedience, respect, loyalty, and support. Hence, civil obedience is one of the features of a legitimate regime. The power of perceived legitimacy to compel obedience is so great that it frequently makes people act against their self-interest. Legitimacy compels civil obedience so much so that the citizenry acts following the laws even when there is no authority there to compel obedience. For instance, most road users waive their self-interest and obey the traffic light (laws) even when there is no authority to compel obedience. Perhaps the greatest evidence of the role legitimacy plays in fostering obedience to the law can be seen in situations where that sense of legitimacy is lost on a large scale. An instance is the uprisings in America. People have flouted the lockdown order and restrictions on social gatherings to protest against police brutality and racism. The African-Americans are displeased with the constitutions or the laws of the land. They are however concerned with the legitimacy of the government that enact these laws, especially the police and law enforcement agency of the executive arm of the government that have misused their powers times and time again.

We have argued that civil disobedience can manifest or result in a regime without legitimacy. However, it is not always clear if the existence of obedience itself discloses legitimacy or whether legitimacy rests on additional sources of validation (Fredrick 23). Civil obedience might also be present in a regime without legitimacy. Nazi Germany is a clear instance. During Hitler's regime which was a dictatorship, civil obedience was a feature as citizens that opposed Hitler were imprisoned or killed. Despite the seeming civil obedience in Hitler's regime, the regime passes as a copious example of an illegitimate government. Civil obedience as pointed out above does not necessarily indicate legitimacy. Legitimacy rests on an additional source of validation, which is free will. Thus, a dictatorship or totalitarian government cannot boast of legitimacy.

### **Legality and Legitimacy: A Comparative Review**

This paper recognizes the complexity and significance of the debates about the relationship between legality and legitimacy in political discourse. To carry out a contrastive review of the concepts, it is proper we differentiate between legality and legitimacy by a way of definition. Legality refers to what

fits within the law and is compliant with a legal framework (Jerez 15). Legality stipulates the dos and don'ts of the society based on the laws or constitution. Legitimacy, on the other hand, involves social acceptability hinged on a consensual agreement of the people. This is why Arendt avers that the moral obligation of the citizen to obey the laws is traditionally derived from the assumption that he either consented to them or was his own legislator (84). Legitimacy also limits the actions of people. It is directly linked to the people. For something to be said to be legitimate it must be borne out of the social convention. Legality on the other hand is what fits within the framework of the law. Laws are not necessarily social conventions. Some laws do not garner social acceptability. For instance, according to Nida, in India child marriage is illegal but in Rajasthan it is legitimate and still, people get their children married. Legitimacy reinforces legality. Laws that are odds with social norms are likely to be unenforced. According to the United Nations Policy Brief 2008, tax as an example, evasion is not seriously penalized in Nigeria because it is perceived as normal, whereas in the United State of America it is a serious crime. In extreme circumstances, legitimacy can introduce constructive flexibility in international law, as illustrated by the 1999 Kosovo intervention. The decision of NATO to launch an attack against the Federal Republic of Yugoslavia (FRY) contravenes the international norm of non-intervention. However, it was widely accepted as legitimate as it was allegedly done to prevent the ethnic cleansing of Kosovar Albanians. Legitimacy needs law as much as the law needs legitimacy—law cannot be respected if seen as illegitimate, while appeals to legitimacy must be based in law to prevent opportunism.

### **Political Legitimacy and Democratic Governance in Nigeria**

Legitimacy is a virtue every government and authority seek. The popularity of democracy, a system in which sovereignty lies in the hands of the people has increased the demand for legitimacy. However, a lot of countries especially African countries face a legitimacy crisis. Nigeria is one of such countries. The question raised is how is it that Nigeria, a democratic nation faces a legitimacy crisis? The answer to this question cannot be exhausted in a single sentence. The Nigerian situation is a peculiar one. As the nature, dimension and severity differ from other systems. The legitimacy crisis in Nigeria is not borne out of a crisis of change from tradition to modernity as Lipset notes. It is a bit more complex than that in the Nigerian context. According to Fredrick,

The concept of legitimacy as a political concept is inherently complex in that it involves at least three distinguishable components: the electoral (constitutional) right to rule; the procedural (normative) rightfulness in the exercise of rule; and the substantive (teleological) rightness in the ends of rule (26).

Each of these components encompasses problems of its own in Nigeria. In the area of the electoral constitution, which involves the processes of power acquisition, if a democratic government is to be seen as legitimate, the people's mandate must be freely given not stolen or taken by force. The Nigerian electoral system has failed in the enhancement of political legitimacy. The Nigerian electoral system has been bastardized as elections are marred by widespread irregularities such as logistics failure, misconduct, and poor technical know-how of Independent National Electoral Commission (INEC) ad-hoc staff and security lapses. The people's mandate has been stolen time and time again. Late President Umaru Musa Yaradua admitted that the elections that produced him as president "had shortcomings" and promised electoral reforms to correct the system (Abdul-Rahman, 27). Unfortunately, the electoral process has worsened over the years. The political gladiators in Nigeria have militarized the elections, not for security reasons but to ensure voter's apathy as well-meaning Nigerians are not willing to get in harm's way in a bid to cast votes that probably might not count. These vices present in almost all elections held in Nigeria has negatively influenced the acceptability of the government by the people. Other than electoral malpractices, ethnic and religious sentiments have influenced the conferment of legitimacy on most administrations in Nigeria. Hillary aptly captures the Nigerian situation as she rightly notes that,

Ethnicism has taken the center stage of Nigeria's political system and has always acted as a threat to the survival of its democratic system. It comes more dreadfully fierce when various ethnicities begin to complain bitterly over political marginalization, from Nigeria's new and most lasting democracy since the year of independence in 1960 (81).

The divide between ethnic and religious lines is made very obvious in the Nigerian political environment where it ideally should have no place. Nigerians especially gullible ones barely legitimize an administration led by a person outside their ethnic or religious group. The Muslim people of the northern part of Nigeria are largely unsupportive of a president who is a southerner and a Christian. This practice is done for the notion of 'born to rule' ingrained in the mind of an average northerner. On the other hand, the Christian southerner sees the northerner as commonly unexposed and as such unfit for office. These stereotypes and prejudices have contributed to the legitimacy crisis faced in the political system of the nation. The administration of former President Goodluck Ebele Jonathan faced a legitimacy crisis as the Hausas were largely against his administration not as a result of underperformance or marginalization of their group but for merely being an "outsider". In the same vein, the Buhari led administration is faced with a legitimacy crisis as the southerners are largely against the government not

only due to underperformance but the mere fact of being a northerner. Every regime in Nigeria is likely to face a legitimacy crisis as there is hardly a consensual acceptance of a government. Ethnicism present in Nigeria's political environment is propagated by corrupt politicians who being aware of the ethnic and religious sentiments of the people appeal to it. The notion peddled by Nigerian politicians is that the development or otherwise of a people is based on the ethnic or religious affiliation of the political office holder. These unfounded lies told during political campaigns have motivated a legitimacy crisis borne out ethnicism.

Abuse of political power by political office holders in Nigeria has also bolstered up the legitimacy crisis faced in the Nigerian state. Nigerian politicians have abused the power and authority of their offices for their aggrandizement or that of their ethnic group. The rule of law has not been held in high esteem as most of the decisions and actions of the political office holders are contrary to the dictates of the constitution. Despite the recognition of the universal declaration of human rights, there are still several instances of abuse of human rights in Nigeria. Nigerian politicians have misused the right to govern conferred on them by the people to violate the rights of the people. This is because contrary to democratic ethos, the state is still largely authoritarian in leadership and security operations (Akhaine et al. 103). Police brutality is currently a serious menace to the Nigerian state. Respect for human rights is at the lowest point in Nigeria. Also, the right to an adequate standard of living is grossly violated in Nigeria. Most of the economic policies have had negative consequences for the citizenry. In addition to lack of jobs for young school leavers, insecurity and shortage of power supply have rendered most entrepreneurial efforts null and void. The ripple effect is an increase in crime rate and poverty. According to the *United Nations Development Programme* (UNDP) document of 2011, over 70 percent of the populace lives below 1 dollar per day. The poverty rate soars as the years go by. This is regrettably caused by corruption and the embezzlement of funds by public officials. The misuse and abuse of power by Nigerian political office holders and its resultant impoverishment of the Nigerian people has spurred revolutionary movements. However, the government has employed unconstitutional means to stop these revolutions in their track. The illegal detention of activists leading revolutions is a violation of the people's right to self-determination. The recent case of Omoleye Sowore is a clear depiction of this violation. Sowore who called for a revolution of the people against the government was still being held in custody even after a court had ordered for his release. The many instances of usurpation and neutralization of the powers of the judiciary by the executive arm rampant in this current administration led by President Buhari are typical of a tyrannical government. The judiciary is the hope of the common man; its freedom signifies the freedom of the ordinary people. If the powers of the judiciary are neutralized or usurped then



the freedom of the people is compromised. Without the freedom of the populace to self-determination, the Nigerian government cannot boast of legitimacy.

### **The Ethico-Political Implications of Legitimacy Crisis**

Legitimacy crisis presupposes a decline in the confidence of the populace in the government of the day. The ripple effect of this lack of confidence and distrust in the government is civil disobedience. Weyler contends that,

...history shows us that civil disobedience is often necessary when the relatively weak face the relatively strong. When power is out of balance, as in most cases of social justice advocacy, civil disobedience may be one of the few tactics left for citizens. And thus, the weak have confronted the strong throughout history: The Quakers, Gandhi, the Chipko movement, the suffragettes, labour movements, Martin Luther King, Rosa Parks, Mairead Corrigan Maguire, Nelson Mandela, Aung San Suu Kyi, Greenpeace, and countless others. Peaceful confrontation, not just words, creates social change (8).

There have been instances of civil disobedience in Nigeria by different groups and movements; however, these groups and movements have culminated in violence and loss of lives. The Movement of the Survival of the Ogoni People (MOSOP) is an example of civil disobedience that went awry as thousands of Ogoni sons and daughters lost their lives. Other than the large scale of disobedience experienced in Nigeria, there are small scales instances noticeable in every sphere, nook, and cranny of the Nigerian state. Indeed, without legitimacy, even the most general legislation is impossible to explain. The legitimacy crisis faced in Nigeria has prompted the citizenry to question and disobey the basic laws of the state. The attitude of the Nigerian people to the measures put in place for the COVID-19 pandemic is a case in point. The deep distrust the Nigerian people have for the government has made them doubt the existence of the virus in Nigeria. They believe it exists in other countries but see it as a ploy for Nigerian leaders to embezzle funds in the country. This has endangered the lives of virtually every Nigerian residing in the country. Civil disobedience is neither condemned nor commended directly (Adelakun17). It can bring about positive change but at the same, it can destabilize the growth and development of a state.

The tripod of corruption, ethnicity, and religious intolerance are the consequence of the cyclical legitimacy crisis and the underdevelopment of Nigeria. An illegitimate government cannot be said to emanate from the

people. It is the people that confer the legitimacy of a government in a democracy otherwise the government will suffer rejection from the people. Disapproval or rejection of a government is the foundation of other moral and political issues like the breakdown of law and order, instability, violence, youth restiveness, and terrorism. The legitimacy crisis is founded on the lack of good government because there is no good governance when a government is not derived from the people and when it is not participatory as well as promote rule of law, even when such government brings about economic or material development. The *United Nations Development Programme* (UNDP) document of 2012 records that:

'Good' or 'democratic' governance exists when the authority of the government is based on the will of the people and is responsible for them. It is when open democratic institutions allow full participation in political affairs and when human rights protections guarantee the right to speak, assemble and dissent. It is when government and governmental institutions are pro-poor, promoting the sustainable human development of all citizens (1).

Good governance is founded on transparency, accountability, protection of human rights, and the promotion of legitimacy. It brings corruption to a minimal and enhances national development. The fact is that corruption challenges the legitimacy of a democratic authority or government because it breeds the poverty of the people. Illegitimacy breeds poverty through corruption, armed robbery, and kidnapping for ransom. It gives rise to tyranny, oppressive tendencies, and irresponsibility in governance. It is, indeed, very bad and unacceptable for one to be forced on the citizens against their will in the name leadership or governance. Such a person will not gain the respect, loyalty, and support from the people. A good government is not only one that brings about economic development but one that is all-inclusive, participatory, consensus-oriented, responsive, equitable, and transparent. It is first and foremost one that derives its mandate to govern from the people since it is an act of illegality not to do so. Illegality and illegitimacy are acts of corruption, the crudest forms of corruption in that matter that constitute impediments to rule of law, justice, equity, fairness, and public accountability. Corruption destroys democracy, good governance, and brings national development to a standstill. It is one of the widespread phenomena among the political class in Nigeria that has brought shame, embarrassment, and ridicule to the country over the years with the international community even with the institution of a democratic system of government. Again, the *United Nations Development Programme* (UNDP) document of 1997 avers that,

... the totality of the exercise of authority in the management of a country's affairs, comprising

of the complex mechanisms, processes, and institutions, through which citizens and groups articulate their interest, exercise their legal rights, and mediate their differences. It encompasses the political, economic, legal, judicial, social and administrative authority and therefore includes government, the private sector and civil society (9).

The citizens or the people are the State or what Maritain refers to as the government. This is to say that the people constitute the government, which must, in turn, be accountable to the people. According to him “The people are the very substance, the living and free substance, of the body politics. The people are above the State, the people are not for the State, the State is for the people” (26). Maritain believes and rightly so that the common good of the people is the final aim of the state. The foundation of common good and happiness is embedded in the idea of collectivity which is the moral product of legitimacy.

### **Conclusion**

History shows that legitimacy is not abiding, it is a virtue of governance that needs constant work for it to be retained. Although the Nigerian political environment is currently replete with a legitimacy crisis, it can still be salvaged. Democracy is still the best form of government for the country if it is practiced in its true essence. Legitimacy emanates from the people therefore it is logical that the panacea to legitimacy crisis should also come from the people. First, the Nigerian populace should unlearn or emancipate themselves from the whims of the corrupt politicians and leaders because the mandate to govern a people is betrayed when the governor or leader engages in the act of corruption to enrich himself rather than provide adequate leadership that will benefit the people and develops the nation. The ethnicity crisis that is obviously at the center stage of politics in Nigeria should be taken to the sidelines. In choosing our leaders, excellence and competence should be placed over religious and ethnic affiliations. The leaders on the other hand are acquired to exercise power for the good of the citizens bearing in mind that the right to govern is not natural, it is rather a social construct that can also be deconstructed. Legitimacy is the ultimate justification of political power. With it, governance is made easy as civil obedience and loyalty are guaranteed. In the same vein, the consequences of illegitimate government are grave on the general wellbeing of the people and the development of a nation. Legitimacy cannot be attained through Machiavellian principles; therefore, Nigerian leaders need to earn it through constitutional democratic means since legitimacy justifies political authority.

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