

**PRACTICE OF DEMOCRACY IN NIGERIA: CHALLENGES AND PROSPECTS\***

**Abstract**

*Democracy as a system of government is an age long phenomenon that originated from ancient Greek. In the contemporary world over, experience showed democratic governance was popularly adopted in preference to any other system of government, probably because, it centres mainly on the people and gave room for adoption of fundamental human rights in its Constitution and the practice of the rule of law. Nigeria was not an exception to this practice; however the democratic governance in Nigeria is faced with series of challenges that prohibited the realization of the dividends and prospects despite the enormous human and material resources. This work was therefore set out to look at the challenges and prospects of democracy in Nigeria with an intent to proffer solutions to the challenges where necessary, in order to realize the prospects of democracy as we found in advanced countries like the United States of America, the United Kingdom and some developing African countries like Ghana and South Africa. The work adopted doctrinal methodology and relied on primary and secondary sources of information to drive home the points. The study among other things discovered that faulty constitution, bad government, corruption, insecurity, youth unemployment, poor adherence to the rule of law, human rights abuse, among other things were the major challenges to the prospects of democracy in Nigeria. The work thus recommended that restructuring the polity through a new Constitution, election of a good leadership through free and fair election, serious sanctions to corruption, well equipped and competent security agencies to tackle insecurity, tackling unemployment of youths and rendering listening ear to their problems, effective adherence to the rule of law and effective checks on human rights abuses and establishing stronger democratic institutions, would go long way to enhancing the dividends and prospects of democracy.*

**Keywords:** Democracy, Challenges, Prospects, Nigeria

**1. Introduction**

The advent of British rule in what later became Nigeria saw the introduction of modern democracy which mainly began from the 1922 to 1963 Constitutions before the military eventually intervened in 1966. The military intervention swept under the carpet many of what may be termed dividends and ethics of democracy such as social welfare, justice, equity, fairness, accountability, transparency, the rule of law, the fundamental rights to mention but a few. In place of these, autocratic government with might and power were the order of the day whereas, the rule of law also went in abeyance. The eventual hand over of the military rule to civilian rule by the then interim head of state, General Abudusalam Abubakar to Obasanjo on May 29, 1999 with a supposed civilian Constitution gave another hope to the masses of realizing the dividends of democracy. The quest and glamour for dividends of democracy is better understood in line with Thomas Jefferson's speech in the famous declaration of independence of the United States in 1776 which posited as follows: 'We hold these truth to be self evident that all men are created equal, that they are endowed by their creator with certain inalienable rights, that among these are life, liberty and the pursuit of happiness ... that to secure these rights, government are instituted among men'.<sup>1</sup> The above declaration underscores or rather underlined the importance of institutionalized, effective and efficient governance to the realization of the dividend and prospects of democracy. The reason is that effective and efficient governance bring dividends of democracy to people. It is a 'cabage in and cabage out' thing and a lack of it portends sorrow and misery to the masses, whereas good governance leads to transformational desires and aspirations of all and sundry. No wonder Nigerians welcomed with excitement and utmost acceptance the reinstitutionalization of democracy in 1999. It is imagined to be a return to the period of stability, peace, accountability, transparency, social welfare, a control to corruption from every other thing democracy could offer as found in the advanced states of United States of America, United Kingdom and even the developing South Africa. Unfortunately, the enormous expectations and prospects of democracy as desired by the people are yet to be realized; rather, they continue to dwindle and deteriorate as years go by. Thus, the object of this work is to look at the democracy in Nigeria and its challenges and prospects and to proffer solutions for improvement where necessary in order to effectively realize the dividends and prospects of the democratic governance.

**2. Meaning and Types of Democracy**

Democracy as a term lacks universally acceptable definition, the reason being that people from different backgrounds and experiences defined the concept in accordance to their experiences and backgrounds, thus making the term somehow ambiguous in the contemporary political analysis, attracting to some extent positive, as well as antagonistic interpretations and contradicting practices as we find in Nigeria. Notwithstanding the divergences to the definition of democracy, Blankson asserted that any meaningful definition of democracy must

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\*By **A.C. AKPUNONU, PhD, BL, LLB, BEd, NCE**, Lecturer, Faculty of Law, Chukwuemeka Oduemegwu Ojukwu University Igbaram Campus, Anambra State. Email: [annakpunonu1960@gmail.com](mailto:annakpunonu1960@gmail.com);

\***J.A. EZE, LLB, LLM, PhD**, Lecturer, Faculty of Law, Chukwuemeka Oduemegwu Ojukwu University Igbaram Campus, Anambra State. Email: [airbest01@yahoo.com](mailto:airbest01@yahoo.com)

<sup>1</sup> LO Taiwo and OA Orifowomo, 'Federalism and United Police System; A Product of Political Exigency in Nigeria, [2020] <[www.journals.ezemogohactorc.org/pdf](http://www.journals.ezemogohactorc.org/pdf)> accessed 15th July 2021.

proceed from the ancient definition of democracy as people's rule.<sup>2</sup> To this end the ancient Greek who originated the term democracy in the 1st half of the 5th century BC compartmentalized the word into two; that is *demos* and *kratia* which in Greek means people and rule or authority respectively. Thus, democracy refers to rule by the people, and so begins what Robert Dahl calls the transformation from the rule by few to rule by many.<sup>3</sup> In an address, delivered at the dedication of the soldiers' National Cemetery on November 1863 in Gettysburg, Pennsylvania, Lincoln asserted that 'all men are created equal', and in the light of this, democracy is defined as government of the people.<sup>4</sup> The definition makes the people the subject and object of democracy, or what Ebele calls 'the *raison d'être* of governance.'<sup>5</sup> Democracy is a system of government in which all the people of a country can vote to elect their representatives.<sup>6</sup> Democracy provides alternatives as well as platform for actualization of democratic principles through the instrumentalities of political parties. Thus under this scenarios political parties are allowed to evolve and compete through election for the control of the apparatus of power periodically.<sup>7</sup> Put in another words, democracy is simply a system of government where the citizens directly exercise their powers and have the right to elect government representatives who collectively create a government body for the entire nation.<sup>8</sup> Nwabueze, contends that the underlying idea of democracy is the popular basis of government, the idea that government rest upon the consent of the majority of the governed by means of election at periodic intervals of time, which the franchise is universal for all adults and that it exists for this benefit.<sup>9</sup> Rousseau sees democracy as the government of the people for the general will of the people. Rousseau argues that to provide general will of the people, government must give liberty under the law, must create a system of public education by which children are accustomed to regard their individuality only in its relation of the body of the state.<sup>10</sup> Lenin defines democracy as the government of the peasants and the proletariat, which subordinates the minority to the majority through strong party bodies.<sup>11</sup> From the explanations above, democracy implicitly portends equality of all human beings emanating from creation. Equality denotes absence of special favouritism of any specie of man rather, all and sundry in a state have equal access to social welfare, justice, job or power and other principles of democracy. For example, access to political power in accordance to justice must emanate through a credible free and fair election. In view of this, Gamble, describes a democratic state as 'the republic of equals'. This is because democracy implies, that there should be a substantial degree of equality among men both in the sense that the adult members of a society ought to have, so far as is possible, equal influence on those decisions which affects important aspects of the life of the society, and in the sense that inequalities of wealth, social status, access to education and knowledge, and others not be so considerable as to result in the permanent subordination of some group of men to others.<sup>12</sup> Away from the concept of democracy, the United Nations Development Programme (UNDP) acknowledges the following as core characteristics of democratic governance: participation, rule of law, transparency, responsiveness, census orientation, equity, effectiveness and efficiency and strategic vision.<sup>13</sup>

Malami categorises democracy into direct and indirect democracy, whereas Patil apart from adopting direct and indirect democracy further added presidential, parliamentary, authoritarian, participatory, Islamic and social democracy.<sup>14</sup> However in a work of this nature, attention is given to the popular types of democracy which are direct, indirect or representative, presidential and parliamentary democracy. *Direct democracy* is the early form of democracy and allows all concerned adults to participate in the decision making of the polity. It is gradually getting less popular except in a small community or village due to increase in population. *Indirect or Representative democracy* is a government where all the persons of voting age are expected to vote to form the government by electing persons into government who will represent and act on their behalf, especially in the executive and legislative arms of government, and other organs and agencies of government, and generally

<sup>2</sup> Ukana Blankon in Adeyinka Theresa Ajayi and Emmanuel Oladipo Ojo, Democracy in Nigeria. Problems and prospects [2014] <www.iisteorg> accessed. 19th March 2020.

<sup>3</sup> A Robert Dahl, Democracy and its Critics (New York and London: Yale University Press 1989)1.

<sup>4</sup> Adeyinka Theresa Ajayi and Emmanuel Ohadipo Ojo (n2) 108.

<sup>5</sup> Ibid.

<sup>6</sup> AS Hornby, (eds) Oxford Advanced Learner's Dictionary of Current English (9th edn. Oxford: Oxford University Press 2015) 408.

<sup>7</sup> Abdulkadir B Sule-Gambari, 'The Role of Traditional Institutions in a Democratic System', in MM Gidado, CU Anyanwu and A O Adekunle (eds.) Constitutional Essays, Nigeria Beyond 1999: Stabilizing the Nigeria Polity through a Constitutional Re-Engineering. (In Honour Obola Ige) (Enugu: Chenglo Ltd 2004) 209.

<sup>8</sup> Vanishnavi Patil, 'What are the Different Types of Democracy [October 2016] <https://www.science-abc.com/social-science/different-types-democracy-direct-representatives-parliamentary.ihtm> accessed 22nd October, 2019.

<sup>9</sup> Ben Nwabueze in MO Unegbu 'Democratization and Development in Nigeria' in Uba SF Nwabue (ed) Thematics on the Law of Development (Owerri: Applause B Multi-Sector Ltd 2017) 163 – 164.

<sup>10</sup> Rousseau in Chalie Nwekeaku 'The Rule of Law, Democracy and Good Governance in Nigeria' <www.ea-journal.org> accessed 15th February 2020.

<sup>11</sup> Ibid.

<sup>12</sup> Adeyinka Theresa Ajayi Emmanuel Oladikpo Ojo (n2).

<sup>13</sup> Lanre Olu-Adeyemi, 'The Challenges of Democratic Governance in Nigeria' [March 2012] <www.ijbssmef.com/ journals> accessed 2nd February 2021.

<sup>14</sup> Ese Malami, *The Nigerian Constitutional Law* (Lagos: Princeton Publishing Company 2012) 38, see also Vaishnavi Patil (n8) 2/3.

manage the affairs of government for the welfare of the people.<sup>15</sup> Regrettably, this definition may not ideally apply to Nigeria due to the crop of representatives the country most often produce, that is representatives who are mainly interested in their personal enrichment and aggrandizement.

*Presidential democracy* is a system of democracy where the President of a state has a significant amount of power over the government. He is either directly or indirectly elected by the citizens of the state.<sup>16</sup> The President and executive branch of the government are not liable to the legislature, but cannot under normal circumstances dismiss the legislature entirely.<sup>17</sup> The President could exercise the executive powers of president either directly by himself or through the Vice-President, ministers or other officers in the public service of the federation.<sup>18</sup> The president is free to elect members of the cabinet otherwise called the ministers either within the party or outside the party but subject to confirmation by the legislature. The President is the member of the ruling party. The party ideally supports the president in accomplishing the party's manifesto and advises him on the way forward, likewise the ministers who are responsible to the President who discipline them in situation of misconduct. Sometimes the legislature and the speaker are controlled by different political parties as was obtainable during the Buhari administration in 2015 – 2019 under the Senate President Malami Saraki of the People's Democratic Party (PDP), whereas the president is from All Progressive People's Congress. The President has the power to veto a bill to prevent adoption<sup>19</sup> and implementation. However, if the legislature can obtain two-third of the vote supporting the bill, his assent goes to no issue. Nigeria, USA and South Africa are among countries that run presidential democracy.

Unlike presidential democracy, *parliamentary democracy* allows more powers to the legislature. The head of the state or the executive derives its democratic legitimacy only from the legislature, that is, the parliament. The elected legislature, that is the parliament choose the head of the government (prime minister), and may remove the prime minister at any time by passing vote of no confidence. The head of state is different from the head of government (prime minister) and both have varying degrees of powers. But in most cases, the president is either a weak monarch as in the United Kingdom or a ceremonial head as in India. Unlike Presidential democracy, powers of the executive and the legislature are often fused in the parliamentary democracy and so there is no completely separation of power, rather it is only the judiciary that is completely separate from the other two arms of government, that is the executive and legislative arms. Apart from the doctrine of collective ministerial responsibility and the doctrine of individual ministerial responsibility to parliament, the prime minister as the head of the government or executive arm of government has the power to dismiss any minister and he is primarily responsible to the discipline of the cabinet.<sup>20</sup> The stability of government in this type of democracy is dependent much on the ruling party controlling the majority of the legislature or the ability to form a coalition government with another party or parties. There is an official opposition party in the parliament, which is usually the party having the highest number of votes next to the ruling party in the parliament.<sup>21</sup> The United Kingdom is the cradle of parliamentary democracy, others include Canada, India, Australia, Israel etc. Nigeria ran a parliamentary democracy before the independence in 1960 and between 1960 and 1966.

Despite the benefits of democracy it did not go without some disadvantages. Accordingly, Malami, enlists the following as the criticisms or disadvantages of democracy.

- i. Imposition by the political parties of candidates who are not the popular choice of the people.
- ii. Elected officers are more interested in the welfare and programmes of their parties than those of the people.
- iii. Desperation to win election may compel parties and candidates to thuggery and election malpractices.
- iv. Democracy may endanger corruption in the system.
- v. Corruption, violence and dirty politics scares away responsible and honest citizens from politics, paving the way for the wrong persons to assume political leadership.
- vi. That democracy is too expensive to operate.
- vii. That party politics is too monetized, creating room for money bags to hijack the process.
- viii. That democracy creates a large and unwieldy government which slows down decision making and implementation process<sup>22</sup>

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<sup>15</sup> Ibid.

<sup>16</sup> Vaishnavi Patil (n8) 5/13

<sup>17</sup> Ibid.

<sup>18</sup> See the Constitution of the Federal Republic of Nigeria 1999 (as amended) section 5(1)

<sup>19</sup> Vaishnavi Patil (n8) 5/13

<sup>20</sup>A Justius Sokefun (eds.) 'Constitutional Law' National Open University of Nigeria (Lagos; Adesola Print and Co. Ltd 2008) 47.

<sup>21</sup> Ibid.

<sup>22</sup>Ese Malami in MO Unegbu, 'Democratization and Development in Nigeria' in Uba SF Nname (ed.) Thematics on the law of Development (Owerri: Applause B Multi-Sector Ltd 2017) 164.

### **3. Challenges of Democracy in Nigeria**

Apart from criticisms of democracy, democracy in Nigeria is overwhelmed with many challenges and the basic ones are:

#### **Faulty Constitution**

Opinions are that the process of constitution-making is divided into two, the old and new approaches. Accordingly, Igbuzor, states that, in the old approach, the government manages the election of a constituent assembly. The process ensures little or no debate, no consultation with ordinary people and no referendum on the draft constitution before it becomes law as government has its own agenda and the Constitution will eventually reflect the wishes of the government.<sup>23</sup> The new approach however, is guided by the principle of openness, legitimacy and inclusivity.<sup>24</sup> Inclusivity indicates that all voices and opinions including those of the minority groups should be heard and reflected. It is an actual participation of all segment of the society in the discussion and determination of nation's priorities and values.<sup>25</sup> In any well constituted democracy, the referendum or constituent assembly needs to be preceded by a wide range of constitutional proposal.<sup>26</sup> Since all the people cannot participate to this assembly at the same time in the deliberation of a constituent assembly, it becomes paramount therefore, that the participant to this assembly should be determined through election particularly organised for the purpose.<sup>27</sup> Based on the above premise, and from the available information and expertise opinions adduced above, for a preamble to a Constitution to be the act of the people it must pass through the rigorous process already examined above which according to Nwabueze in Eke include:

- a. The Constitution must be the consensus of the people in a federal set up like Nigeria in all the geo-political set ups.
- b. There must be constituent assembly exclusively elected by the people of various component units.
- c. The assembly must operate on the mandate of the federation. The result of the deliberation must be referred back to the people in a referendum exposing when the draft constituent drafted by the constitution assembly is submitted to the people for approval and such a draft (Constitution) is approved after rigorous deliberations by the populace.<sup>28</sup>

Thus, it is on these bases that a Constitution is believed to emanate from the people and also may bear the words such as 'WE THE PEOPLE of the Federal Republic of Nigeria ... DO HEREBY MAKE AND GIVE TO OURSELVES the following Constitution', could arise and where these processes are lack, adopting and presenting the Constitution to be the people act and will, is nothing but a contradiction. Or at best a charter of government consisting largely of declaration of government and a description of organ of government and in this regard, it bears no enforceable legal restraints.<sup>29</sup> A Constitution of this nature without more exists only to serve to direct, exhort and has only a stamp of legitimacy. Such was the position of the commonwealth Constitution. However, with the independence of the USA from the colonialist Britain in 1776, the jinx was broken, and the new idea which saw a Constitution as a formal document having the force of law from the people was ushered in.<sup>30</sup> A thorough observation of the mode of Constitution-making in Nigeria shows that Nigeria toes more or less the old approach and emphasizes more on the exclusion of the populace. It adopts the colonial method where the colonialists Britain then drafted series of Constitutions for Nigeria stemming from 1922, 1946, 1951 and 1954 Constitutions without the active participation of the citizenry. Adoption of the Constitution by the people is very important for it provides the basis for the supremacy of the Constitution and these proceeds the legislature how drafted the Constitution as well as the government and other organs of government and their powers thereto. But where this is otherwise, the efficacy and respect required of the people to the Constitution may be lacking as we find in the current Constitution of the Federal Republic of Nigeria 1999 (as amended) and in some African countries.

#### **Bad Governance/Leadership**

Leadership is the state or position of being a leader.<sup>31</sup>

A leader is a person who leads a group of people, especially the head of a country, or an organization and so on. Leadership ought to be transformational. A transformational leadership is intellectually stimulating and inspirationally motivating. Such leaders are known for their consideration of followers' needs over theirs, as a

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<sup>23</sup> Ibid

<sup>24</sup>O Igbuzor, 'Strategy Towards a Peoples Constitution in Dare E Arowolo. 'Constitution-making, Constitutionalism and Insurgencies in Nigeria' [2014] Nigeria Journal of Applied Behavioural Science, accessed 6th June 2016, 220.

<sup>25</sup>Ibid.

<sup>26</sup>Agha Eresia Eke, 'The Contradictions of Constitution-making in Nigeria [2012] <www.ajol.info>view> accessed 6th June 2020.

<sup>27</sup> Ibid

<sup>28</sup> Agha Eresia Eke (n27)

<sup>29</sup>AC Akpunonu, 'Constitution of the Federal Republic of Nigeria 1999, (as amended): Will of Nigerians? [2019] (1) (3) *International Review of Law and Jurisprudence* 184.

<sup>30</sup> Ibid, 188

<sup>31</sup> AS Hornby, Oxford Advanced Learner's Dictionary of Current English, 885.

result of which followers admire, trust and respect them.<sup>32</sup> A transformational leadership exhibits factors determining leadership, good governance and accordingly international index for good governance include safety and rule of law, participation and human rights, sustainable economic opportunity, human development.<sup>33</sup> Poor leadership attitude does not allow Nigeria leaders to exhibit the characteristic of transformational leadership.<sup>34</sup> The reason is that adopting positive perception towards public good is a cloak to criminal satisfaction of personal interest prevalent in Nigerian leadership. The attitude of Nigerian leadership demoralizes and discourages team spirit geared towards achievement of common purpose or the desires and aspirations of the citizenry. The effects of bad governance in Nigeria include unemployment, high cost of living, inflation, lack of adequate business financing, poor infrastructure, endemic public sector corrupt practices and pervasive poverty.<sup>35</sup>

### **Corruption**

Corruption is one of the teething problems inhibiting the dividends of democracy in Nigeria. Corruption is also among the concepts that lack universally accepted definition and this explains so many definitions accredited to it. Olu-Adeyemi, defines corruption as an act of requesting, offering, giving or accepting directly or indirectly a bribe or any other undue advantage or the prospect therefore, which distorts the proper performance of any duty or behavior required of the recipient of the bribe, the undue advantage of the prospect thereof.<sup>36</sup> Corruption can also be defined as the depravity, pervasion or taint, an impairment of public official duties by bribery.<sup>37</sup> The Criminal Code describes official corruption as:

any public official who corruptly ask for, receives or obtains any property or benefit of any kind for himself or any other person or corruptly agrees or attempts to receive or obtain any property or benefit of any kind for himself or any other person, on account of anything already done or omitted or any favour or disfavor already shown to any person, by himself in the discharge of his official duties or in relation to any matter connected with the functions, affairs or business of a government department, public body or other organization or institution in which he is serving as a public official...<sup>38</sup>

Analyzing the depth of corruption among the leadership in Nigeria, Ogunwa, states:

The present magnitude of stealing, fraud, or corruption as a general term, indicates that the race is towards the first politician to celebrate entry into the 'trillionaire' group.

Thus, stealing in Nigeria cuts across all the levels of government, from the presidency to the state governors, local government chairman to the councilors. They stole billions of naira through the awards of contracts inflation.<sup>39</sup>

### **Insecurity**

Insecurity impliedly refers to a situation of unsafe or feeling of danger or fears against a phenomenon.<sup>40</sup> It could be insecurity on environment, job or any other phenomenon. Causes of insecurity in Nigeria may emanate from political instability, poor governance, and unemployment to hunger and others as are currently being experienced in the present administration.

### **Unemployment**

This is described as a state of not having a job or a number of people without a job.<sup>41</sup> The unemployment rate in Nigeria is quite alarming and sometime it decreases but most times it increases as the country advances in age of democracy and governance; indicating evidence of bad governance. The unemployment rate as at 2020 was 9.0%,<sup>42</sup> whereas in 2021, the unemployment rate was 33%. This result shows that there is drastically high unemployment rate in Nigeria particularly under the current administration. This is not a good standing for Nigeria especially as regards world rating and the vices that are associated with unemployment.

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<sup>32</sup>Uno Ijim Agbor, 'Leadership Behaviour and Crisis of State Failure in Nigeria: Towards A Transformational Leadership Attitude for Addressing Nigeria's Fail State' [2012] <[www.11ste.org](http://www.11ste.org)> accessed 13th May 2020.

<sup>33</sup>A Hamza Yusuf, 'Leadership Role and Good Governance in Nigeria' accessed 15th February 2020.

<sup>34</sup>Unoljim Agbor (n38).

<sup>35</sup>Ibid.

<sup>36</sup>Lanre Olu-Adeyemi

<sup>37</sup>Peter Anyaebe and Vivian Madu further explained that in the case of Calab Ojo v FRN [2008] NWLR (pt 1099) 457 that the court held that the word corruption connotes impairment of public official duty by bribery.

<sup>38</sup>Criminal code Act Cap 38, Laws of Federation of Nigeria, 2004, section (1) (a).

<sup>39</sup>Samuel Adetola Ogunwa, 'Challenges Democracy in Nigeria' [2015] <<http://www.aiscience.org/journal/ajssr>> accessed 4th February 2021.

<sup>40</sup>See A. S. Horn by (ed.) Oxford Advanced Learner's Dictionary of Current English (n6) 812 and E.M. Kukpatrick, Chambers Universal Learners' Dictionary (Ibadan: Spectrum Books Ltd. 2007) 373.

<sup>41</sup>A.S Hornby (eds.) Oxford Advanced Learner's Dictionary of Current English 1705.

<sup>42</sup><[www.statistical.com/forward/unemployment-rate-in-Nigeria](http://www.statistical.com/forward/unemployment-rate-in-Nigeria)> accessed 4th January 2022, see also the same website for unemployment rate for 2022.

### **Poor Adherence to the Rule of Law**

The rule of law is a concept with diverse definitions and has gained popularity in the contemporary democratic governance. The Black's Law Dictionary describes the rule of law as;

The supremacy of regular law as opposed to arbitrary power, the absence of any arbitrary power on the part of the government, it implies that citizens must respect the rule of law, it is also termed supremacy of law, the doctrine that every person is subject to the ordinary law within the jurisdiction, the equal subordination of all citizens and classes to the ordinary law of the land... It is again loosely defined as a legal ruling; a ruling on point of law.<sup>43</sup>

The Secretary General of the United Nations defines the rule of law as:

A principle of governance in which all persons, institutions and entities are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated and which are consistent with international human rights, norm and standards. It requires, as well, as measures to ensure adherence to the principles of supremacy of law, equality before the law, accountability to the law, fairness in the application of the law, separation of powers, participation in the decision making, legal certainty, avoidance of arbitrariness and procedural and legal transparency.<sup>44</sup>

Notwithstanding the diversities in the definition herein and other definitions and descriptions too numerous to mention, the rule of law conveys one central message, which is application of known law for common good devoid of arbitrary discretion. In a democratic polity, Constitution remains the most legal instrument from which rule of law is drawn from. Ideally the rule of law means the establishment of constitutional democracy in its most comprehensive, purest and finest sense. In *Xates v United States*,<sup>45</sup> the US Court describes a democratic country as 'A free government, one that leaves the way wide open to favour, discuss, advocate or incite causes and doctrine however obnoxious and antagonistic such view may be to the rest of us'. In the case of *R v University of Cambridge*,<sup>46</sup> the English Court established the principle that 'Nobody could be denied of his property without first having been given the opportunity to be confronted with the allegation against him, proffer his defence and thereafter be adjudged either guilty or innocent'.

The rule of law no doubt connotes checks and balances, civil liberty, accountability and transparency and separation of powers<sup>47</sup> among others and these in effect gives credence to democratic governance. It is obvious therefore, that the leadership and other stakeholders entrusted with powers should exercise them according to the provisions of the Constitution as a peace setter to democratic governance as obtainable in advanced countries of United Kingdom and the United States of America.

In Nigeria, the preamble to the 1999 Constitution indicates the applicability of the rule of law, whereas section 1(1-3) of the Constitution emphatically declares the Constitution Supreme and states that exercise of powers must be derived from the Constitution and any other law inconsistent with the Constitution shall to the extent of its inconsistency be void.<sup>48</sup> The Constitution further states:

It shall be the duty and responsibility of all organs of government and of all authorities and persons, exercising legislative, executive or judicial powers, to conform to, observe and apply the provisions of this chapter of the Constitution.<sup>49</sup>

However, effective adherence to the rule of law is yet to be achieved in Nigeria as obtainable in advanced countries of United States and United Kingdom where Nigeria has most interaction. The rule of law in Nigeria is being affected mainly by faulty Constitution, bad governance, executive lawlessness, unemployment and recently insecurity and others.

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<sup>43</sup> Bryan A Garner (eds.) Black's Law Dictionary (9<sup>th</sup> edn. Texas: West Publishing 2014) 1531

<sup>44</sup>The Secretary General of United Nation's definition in Charlie Nwekeaku, 'The Rule of Law, Democracy and Good Governance in Nigeria' [March 2014] [www.eajournals.org](http://www.eajournals.org) accessed 15<sup>th</sup> March 2020.

<sup>45</sup> [1958] 354US294 at 344.

<sup>46</sup> [1723] 1 str. 567 (Eng) in Mrs A.C. Akpunonu, 'Rule of Law as a Catalyst to Democratic Governance: Nigeria as a case study [2020/2021] (3) (1) *Chukwuemeka Odumegwu Ojukwu University Journal of Private and Public Law (COUJPL)*262.

<sup>47</sup>Separation of powers as projected by Montesquieu means not entrusting the powers of the three arm of government, that is the legislature, the judiciary and the executive in one body or man but should be divided to avoid absolutely power which corrupts absolutely, however the three should coordinate.

<sup>48</sup> See CFRN, 1999, Section 1 (1-3).

<sup>49</sup>See also section 13 of the Constitution, although this provision is non justiciable but remained mere aspirations of government to be attained in due course.

### **Human Right Abuse**

The CFRN of Nigeria, 1999 at least provides for fundamental rights.<sup>50</sup> These provisions without more project and preserve the sanctity of life, and without these, the human person may not be different from ordinary animal. Section 33 of the Constitution for example provides for right to life which is inalienable. It is also one of the main fundamentals of natural rights and often said to be biblical and a violation of it is frowned at and attracts instant sanctions.<sup>51</sup> In Nigeria, human right abuse is also frowned at save in regard to the exceptions in the provisions of the Constitution, and despite the restriction and derogations, they are treated with caution.<sup>52</sup>

In effect what is obtainable in Nigeria as a democracy is a mere name but in practice the polity is far from it. Thus Nigerian democracy is facing a lot of challenges too numerous to discuss in a work of this nature. Therefore, apart from the basic ones discussed above, there are still issues like lack of periodical electoral reviews or reforms for credible election, infrastructural decay, unethical and unpleasant behavioural disposition of the Nigerian parliament on the floor of the House, over-bloated size of the federal legislature, presently there are about 109 senators and 360 representatives in the National Chambers, this is quite unlike in the United States where Nigeria claimed to have borrowed the democracy from and whose population doubled that of Nigeria.

Other challenges to democracy include inappropriate implementation of constituency projects. Monies budgeted and approved for constituencies are either not utilized or starved away or kept in abeyance and only partially implemented towards a new election period to attract and win voters interests. There are also poor justice delivery and financial emasculation of the state judiciary and local government by state government, bureaucratic response to emergencies, godfatherism emanating from the political elites.

### **4. Prospects of Democracy in Nigeria**

Democratic governance is the major system of governance in the contemporary world as opposed to dictatorial or authoritarian governance. It therefore suggests that there are so many benefits and prospects expected of democratic governance wherever it is appropriately practiced. If nothing else, it is government of the people by the people and for the people. In other words it is peoples' oriented and has the following prospects for the polity despite the challenges discussed above.

#### **Equality before the Law**

Democracy has inherent power of equality before the law for every citizen exposed to it. This is because its main cardinal points or rather working principle is the rule of law. Rule of law derives its power and potentials from the known law which is mainly from a viable Constitution (the *grundnorm*) as opposed to arbitrary discretion. The rule of law in this context include political equality, equity, protection of peoples fundamental rights as set out in the chapter four of the CFRN, 1999, (as amended), availability of independence of the judiciary and good justice delivery. To this end, everybody is expected to be treated equally and fairly before law to ensure true democracy.

#### **Political Change through Credible Election**

Efficient and effective democracy promotes change through free and fair election. Since the commencement of the current phase of the democratic governance in Nigeria from 1999 after the military aberration or rather dictatorship, Nigerians have maintained consistent change for civilian rule for about twenty-three years through the ballot box. Though more are still expected of the voting process in Nigeria to bring to bear the dividends of democracy in Nigeria, but for now electoral process is very popular and remained the only way through which political governance is changed in Nigeria.

#### **Sense of Obligation towards the Followership**

In a democratic dispensation, power belongs to the people, that is, the governed, and this is one of the prospects of democracy. It therefore suggests a social contract and obligation towards the people that gave the leadership the mandate. The obligation entails among other things good governance, transparency and accountability to the followership. To crown it all, the attitude of the leadership should also be a transformational one leading the followers to achieve their desires and aspirations as obtainable in the developed and some developing countries like the South Africa. Failure to meet these obligation inherent in democratic governance, may throw a particular leadership out either through an impeachment or voting out the affected leadership in the next election. Unfortunately, the electorates are yet to realize this prospect, rather majority of them out of greed, poverty or illiteracy often succumb to intimidation and bribery offered by the prospective leadership thus, trade in their power to bribery and immediate gratification.

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<sup>50</sup> See section 33-44 of the current Constitution.

<sup>51</sup> RC Fuller, *Good News Bible*, Genesis Chapter 4:1-12 (4<sup>th</sup> edn. New York: photo offset process 2004) 4.

<sup>52</sup> See CFRN, 1999, (as amended), section 45 of the above Constitution.

### **Peace, Freedom and Prosperity**

Effective democratic governance guarantees the rule of law and respect for human rights. It also brings to bear equity and fairness. Powers are shared to the constituent units accordingly in regard to the provision of the Constitution and not by whims and caprices of man as obtainable in Nigeria. Under this medium, democracy goes with peace, freedom which eventually brings about prosperity in the polity.

### **Responsible and Stable Administration**

When there are elected and tenured representatives, a more responsible government is formed and democracy can be efficient, firm and stable.<sup>53</sup> Democracy at every pointing time shows chain of responsibility particularly among the three arms of government, that is, the legislatures, the executive and the judiciary. The legislature enacts the law, the executive executes the law enacted by the legislatures whereas the judiciary interprets the law where need be and checkmate the executive lawlessness. Effective and efficient coordination among these three arms of government bring the consolidation of democratic governance in the polity. Consolidation of democracy describes the concrete, physical, conscious and visible arrangement and attempts by stakeholders in the polity to strategies and put paraphernalia in place towards overcoming the hindrances to the involvement of the people in the dispensation of state political processes and strengthening the principles, instruments, structures, and processes of democratic practices in the state.<sup>54</sup> Apart from consolidation of the democratic practices in the state, consolidation as part of prospect of democracy also curtails party defections in that when the internal democracy is enhanced and better managed through consolidation of party affairs, it reduces defection which often arose from poor management of party affairs and the grievances of the marginalized party members. When democracy is consolidated, the selfish interests and self aggrandizement of some party members often give way to common party interest and ideology.

### **5. The Way Forward**

Indeed the enthronement of effective democracy and effective tackling of challenges of democracy are of utmost important for social-economic and political transformation of the polity. In the light of these, good governance, justice, equity, fairness, transparency, accountability are of essence to restore confidence and trust in the polity. To promote democracy and prospects of democracy in Nigeria the following measures are therefore recommended.

#### **Change of leadership through credible Election**

A political change of leadership at every point in time and in all tiers of government in Nigeria must come through a credible election. The leadership in its entirety must be transformational and based on selfless service, leadership by example and sincerity of purpose, rather personal aggrandizement. Similarly, periodic electoral reforms are necessary for the enhancement of democracy and the prospects democracy. Therefore, the executive should encourage it rather than see it as a bottle neck to the leadership and the party as we experience under the current Buhari administration.

#### **Streamlining the Democratic Institutions in Nigeria**

There should be effective and deliberate government policies on streamlining democratic institutions such as the political parties, the National Assembly, the judiciary, the Independent Electoral Commission (INEC), the Civil society, the anti-graft agencies such as the Economic and Financial Crime Commission (EFCC) and others. It is paramount that these institutions are allowed to be fully independent for maximum performance to ensure effective sustenance and enhancement of the democratic prospects.

#### **Stiff Measures to Corruption**

Honest and stiffer sanctions like life imprisonments must accompany aiding and abetting in corruption like embezzlement of huge amount of public fund to deter future occurrence. Whereas minor related offences may attract ban for life of holding public office, pursuit of political carrier or a heavy sum paid in restitution.

#### **Restructure of the Polity through a new Constitution**

A faulty Constitution is an ill wind that blows no one any good no matter how we pretend about it. To this event, a lopsided constitution with series of lacunas enacted by a few military men with inherent agenda serving a legal document (*grundnorm*) in Nigeria is an aberration and can never bring about any viable development how much more achieving the desires and aspiration of the citizenry. So the earlier we advise ourselves accordingly to enact a viable Constitution emanating from the will of the people, the more we are near to realizing the prospects of democracy.

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<sup>53</sup>Alara Oluwaseyi, 'Problems and Prospects of Democracy in Nigeria' [November 2016] <https://infogudenigeria.com/problem-and-prospects-of-democracy-in-nigeria>>accessed 11<sup>th</sup> October 2021.

<sup>54</sup>Osahon Omoregic and Walter Idada, 'Democracy in Nigeria. Problems Challenges and Consolidation' [September 2017] <<https://www.researchgate.net/publication/329107-737> accessed 2nd February 2021.>



### **Nipping Insecurity from the Bud**

Any threats of insecurity must be nipped in the bud because no prospects of democracy can be realized in an atmosphere of insecurity and chaos as experienced in Nigeria today. In view of this, adequate information technique and conflict resolution mechanism will do a lot better in resolving the grievances than suppressing them.

### **Reduction of Unemployment**

An idle mind they say is the devil's workshop, therefore the alarming rate of unemployment especially among the youths portends danger to the democracy as we experience in Nigeria presently. To tackle this, government should, open up employment opportunities, establish new industries and refurbish the existing ones to keep the employable youths busy. Government should also reduce hunger and poverty, by creating an enabling environment for entrepreneurship; motivate youths to get into agriculture and give form implement to assist them in order to curb the evils that are associated with these phenomena such as stealing, armed robbery, banditry and at the extreme cases, suicide.

### **Equality before the Law**

This guarantees peace, freedom and prosperity. On the other hand partiality breeds violence and conflict and so should be avoided, rather all and sundry should be subject to a known law when necessary, irrespective of one's personality. Executive lawlessness should also be avoided in all its ramifications since it does not help the advancement of democracy nor the prospects. Again human right abuse is an aberration and should be avoided at all levels. The leadership should rather employ fair hearing in interacting with the followership and allow common interest to strive.

### **Review of immunity Clause**

Abuse of immunity clause is cloak to a developing democracy like ours. In the light of this, the immunity clause for certain categories of serving political leadership as regards clear proof of criminal offence like embezzlement of public fund should be expunged to make the affected accountable to the electorates and deter other serving and future leaders from doing otherwise.

## **6. Conclusion**

Effective democracy must enhance prospects of democracy; otherwise it is an exercise in futility. In the light of this, the work thoroughly looked at democracy in Nigeria, challenges and prospects. It is discovered that, though democracy is adopted in Nigeria but a practical democracy is yet to be realized due to a lot of bottle necks to it, which are mostly man made and these inhibit at least optimal enhancement of the prospects of democracy in Nigeria. We therefore submit that except urgent efforts are made to tackle the bottle necks discussed and highlighted above, practical democracy and the prospects of democracy as enumerated above remain a scratch of the surface or rather a mere dream in the democratic dispensation of Nigeria.