

THE CHALLENGES TO THE RULE OF LAW IN NIGERIA: A HISTORICAL AND THEORETICAL ANALYSIS

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Abstract

This work attempts to posit to the surface that which challenge the Rule of Law in Nigeria. It attempts to equally trace the given atmosphere that results in flagrant disrespect and abuse of the Rule of Law by the citizens and government officials in Nigeria. This work equally posits practical solutions to effect and ensure that the Rule of Law is employed in Nigeria in practice and not just in principle. This work focuses on the socio-political terrain of Nigerian between 1999 and 2019. Qualitative method of data presentation is employed in this work as the gathered data via the primary sources (Literatures pertinent to the topic being studied) and secondary sources (personal communication in particular), were analysed phenomenologically. Furthermore, this work will posit a concise historical indices of the challenges to the rule of law in Nigeria in concrete situations by the government officials and citizens in Nigerian within the years under the scope of study. Since this work is theoretical in nature, the theory of Authoritarianism was adopted by this work in order to exposit the political premise that most Nigerian governmental officials employ which foster their gross abuse of the Rule of Law. The Elite theory was adopted to portray vividly the class struggle in Nigeria that foster the abuse of the Rule of Law by some politicians and tribes that are under the peculiar conception that they are "born to rule" and so are equally "above the law". In order to describe the state of affairs that bad governance and gross abuse of the Rule of Law by the governing class creates in Nigeria which equally perpetrates corollary abuse of the Rule of Law on the long run by some citizens of Nigeria (as they take the laws into their hands often times); the theory of Anomie was employed. Sequel to that, the Neo-Welfarism theory was employed as that which can create the atmosphere in the Nigerian society that will enforce total submission to the Rule of Law by all and sundry. Finally, it is pertinent to however underscore that this work does not claim to be exhaustive in nature; room for further research on the relevant topics to this still abounds.

Introduction

The laws that guides the Federal Republic of Nigeria; and equally contains the contents of the Human Rights as pertinent to Nigeria as well are protected

under the most current amended 1999 constitution of Nigeria ratified and enacted in 10th January, 2011. With a written gazette document as this in place, it behoves that every citizen of Nigeria including those with the reins of the government authorities should abide by it.

In the content of the rule of law, it is legal and legitimate that the constitution of a given Nation should govern such a Nation, and not arbitrary decisions by individual government officials. The citizens of such a given Nation are equally expected never to act rashly nor take laws into their hands; they should always allow justice to take its full sway in the court of law and through the disciplinary panel and authorities set in place for that through basic channel of legal process. As it is, a close survey in the Nigerian situation posits that the reverse is more often than not the case experienced.

Cases of flagrant abuse and disrespect of the rule of law by certain government officials in Nigeria are paramount. The majority of the Nigerian citizens appears to be lawless. Jungle justice, unpatriotism, violence that often extends to terrorism, inability to follow due process in official activities and acts that tantamount to treasonable felony depicts the contemporary scenario in the Nigerian society. The governmental and socio-political terrain of Nigeria is characterized by political corruption, abuse of power, judicial ineptitude and poor leadership. All these equally makes the nation Nigeria looks like a failed state. This was actually why Anuye, Akombo and Abdsulsalami (2017), maintained that "... democracy, the rule of law and good governance are the key elements that are imperative for the existence of what Plato in his "The Republic", described as an "Ideal State" (p.1).

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The Content of the Rule of Law

The Rule of Law in general terms implies “Equality Before The Law Of Any Given State”. This notion expresses that no one is above the basic laws or constitution of any given state: And irrespective of one’s status in the society, such a one should be treated equally before the law of the state. This equally assures equal opportunity for all and sundry in any given state. The rule of Law according to Daniel (2014), implies that every person is subject to the law, including the lawmakers, law enforcement officials, and judges. In this sense then, it stands in contrast to a monarchy or oligarchy where the rulers are held above the law.

Dicey (cited by Gianluigi, 2009), was the one that propounded the rule of law in the Modern time. Although Ranjan (2011), registered that the concept backs to the time of Aristotle. Aristotle then on his part, ruled out the concept of rule under discretion by all means and tried to convey his followers that given the choice it is always Rule of Law that scores over the Rule of discretion. Dicey (cited by Gianluigi), gave three postulates of Rule of Law which includes:

- (i) Everyone is equal before the law.
- (ii) Sanctions have to be backed by law
- (iii) Courts are the ultimate body and supremacy of court is ambivalent in civilised society. He was firm in his proposals and equally influential in his times. However, the third principle was protested by many of the Jurists of his time, whereas the first two are still in almost every legal system of the world today.

In lieu with the foregoing, John (2009), stated that from Dicey's analysis, it is obvious that the concept of the Rule of Law clearly answers the query: Does the state exist on its own right over and above the citizens' right? It is then obvious from the afore-stated that the rule of law is an accepted common phenomenon both in view of natural and positive laws. Thus, for justice to gain ascendancy in any given society, the Rule of Law must be upheld in high esteem by every citizen of a given state irrespective of status. John (2011), in line with the already established stressed that the Rule of Law involves the sovereignty of the law over the personal ideologies and ambitions either of the individual or state. This rule thus, will aid the leaders to be well tutored on the need to condescend to the law. The citizens on the other hand will take example from those at the helm of authorities. This will greatly influence the overall ideal of a given state in the socio-political, socio-economic and governmental administrative stance.

Two principal conceptions of the Rule of Law is upheld by Modern Legal theorists, according to Brian (2002), they are; the "formalist" or "thin" definition – this does not make a judgement about "how just" a peculiar law is itself; it however defines specific procedural attributes that a legal framework must have in order to be in compliance with the Rule of Law. The other principle is the "Substantive" or "thick" definition – this goes beyond and deeper to include certain substantive rights that are said to be based on or derived from the Rule of Law. Graham and Stroup (2016), added that most legal theorists believe that the Rule of Law has purely formal characteristics. Thus requires the following:

- General regulations that is applicable to all persons and behaviours in the society irrespective of ones status as opposed to individuals.
- Law should be published and not sensitive.
- There should only be minor or no retroactive laws in existence.
- Laws should not be contradictory but rather consistent.
- All in the society must be subject to the law; thus ensuring equality before the law.
- There should be certainty of the application of the law for a given situation.

Formalists contend that there are no requirements with respect to the content of the Law. Others, including a few legal theorists, believe that the Rule of Law necessarily entails protection of individual rights. At the legal theory platform, these two approaches to the rule of law are seen as the two basic alternatives, clearly identified as the formal and substantive approaches. Other views equally abounds. Mathew (2008) noted that some believe that democracy is part of the Rule of Law as already noted in this work.

The phrase “The Rule of Law” is all embracing. It refers to both a political situation and precepts to ensure and enforce the maintenance of law and order in any given setting. Little wonder Ranjan (2011), maintains that the Rule of Law is a classical principle of administrative law. Simply put, without the “Rule of Law”, every administrative organ of human endeavour will collapse. No administrative entity will stand the test of time because the scenario will always end up in chaos and catastrophe; for no one will ever submit to another. There will always remain a perpetual state of anarchy.

Nevertheless, it is worthy of noting that laws of a land can be manipulated to suit the whims and caprices of some opportuned persons within the reins of the government. A situation as this may end up in revolution. Thus Solum (2017), pointed out that in a thoroughly evil society, the rule of law will be extremely problematic. Even an evil society may benefit from regularity in the reinforcement of ordinary laws; but when it comes to horrendously evil laws, anarchy or revolution is likely to be preferable to the rule of law. One thing then should be upheld, the rule of law assures predictability and certainty of the laws. When this is in place, it will create a sphere of autonomy within which individuals can act without fear of government interference. The case of enacting laws to meet the whims and caprices of those within the reins of the government can be addressed by the citizens making sure that incorruptible politicians and candidates are voted into power especially in the law making body of any given state.

Theoretical Framework

The theories already outlined to be employed by this work will be expatiated here in details. Efforts will be made in relating them to how it infuses the violations and abuse of the Rule of Law in Nigeria, which equally forms part of the endemic and paramount challenges to the Rule of Law in Nigeria.

The Theory of Authoritarianism

Authoritarianism is the employment of a political ideology wherein those at the helm of affairs lord it over their subjects regardless of the masses consensual desires, demands and expectations. According to Mbah (2013), “It is a style of government in which the rulers demand unquestioning obedience from the ruled” (p.154-155). In an authoritarian regime, the claims and demands of authority is upheld over those of individual liberty.

In recent times as Tomsy (2019), intimated, authoritarianism is more often than not referred to as “despotism” in its meaning. Halevy (2013), maintained that this is so as authoritarianism points to arrogant and intolerant governments,

irrespective of the justification or absence of it. Authoritarianism is a theory that promotes a form of government that depicts strong central power and limited political freedom. Masashi (2010) pointed out that in an authoritarian regime, individual freedoms are subordinate to the state, and there is no constitutional accountability. He went ahead to include that an Authoritarian regime can be autocratic, with power concentrated in one person, or can be a committee, with power shared among officials and government institutions.

The Political Scientists, Juan Linz (cited by Shorten, 2012), and (Heinrich and Pleines, 2018), identified authoritarianism as characterised by the following:

- Limited political pluralism, actualised with repressions on the legislature, political parties and interest groups;
- Political legality hinging on adjurations to emotions, and identification of the regime as an inescapable ill to tackle “simply identifiable societal/social problems, like unemployment, underdevelopment mutiny and militancy”.
- Political mobilization, subjugation and repression of anti-regime activities.
- Squeamish-defined executive powers, mainly inexplicit and winding, which extends the power of the executive.

Nothing can forestall gross abuse and disrespect to the rule of law by those in government authorities operating with an authoritarian theory. It makes them “The Law” themselves. Little wonder Fredrick The Great (cited by Mbah, 2013), stated “I have an agreement with my people: They can say what they like and I can do what I like” (p.155). This typifies the contemporary federal governmental regimes stance in Nigeria.

Elite Theory

The Elite Theory elucidates that every society or milieu anchors a ruling class; a minority group that controls, determines and disputes the most important power sources. According to Lopez (2013), these Elites not only reaches different levels of conflict and violence in their quest for wielding power, but new elites also enter the game through different mechanisms of elite recruitment.

Elite theory is deep-rooted in classical sociology; Lopez (2013), and Efebeh (2015), indicated that the Elite theory was upheld by such scholars as Vilfredo Pareto, Gaetano Mosca, and Robert Mitchell: Contemporary scholars of elite theory includes, Mills (1956); Lerner, Nagai, and Rothman (1956); Burnham, (1960); Dohoff, (1967); Putnam, (1976); Schwartz, (1987); Bottomore, (1993); and Dye, (2000).

In political science and sociology, Elite Theory is a theory of the state that attempts to determine and expatiate power affinity in the contemporary milieu. This theory projects that a small minority, according to Amsden (2012), consisting of members of the economic and wealthy class elites and policy-planning networks, wields the highest power-and that this power is completely not dependent on public opinion, thus it is basically independent of democratic elections. Elite theory stands against pluralism. It projects that either Democracy is a "Pipe dream" or "Utopian Folly", or that democracy is not achievable within capitalism.

Scholars of elitism according to Efebeh (2015), believes that all societies are divided into two sects consisting of the governing minority and the governed majority. The elite class are ever on the edge to maintain certain perceived whimsical and capricious interests. They exert significant and dominant political influence in the society. Mazi (cited by Efebeh), maintains that a good number of human being (Africans mostly, and Nigerians in particular) are impassive, over bearing and docile. They are perpetually incapable of self-government, most of them derive joy from being led and unduly dominated. Due to the fact that the elites perform most political endeavours, they monopolise and dominate political power, they equally make public policies that tend to suit their common egocentric goals and interest. Little wonder Donald Trumps alleged derogatory statements on Africa (cited by Cillizza, 2019), as living in shit holes and unable to vote out government they tag tyrannical when the opportunity sets in. he maintained that African countries ought to be recolonised again for another century because they are basically ignorant of all that leadership and self-governance entails.

Addressing the issue of sectionalism which is the bane of Elite theory in the Nigerian politics, Mbalisi (2017), intimated that politics by identity and prebendal politics are directly responsible for disintegration, heightened state of insecurity and social instability in Nigeria. All these fosters the abuse of the rule of law which is one of the major challenges to the Rule of Law in Nigeria. In elucidating this the more, the Elite theory makes the so called "Elites group" in politics to perceive democracy as that which can easily be manipulated by the "few opportuned ones" to serve their interests and purposes. This then creates problems pertinent to its ability to actually posit or portray the general will and mandate of the citizens; as seldom play by the rule of law. This state of affairs only ensures high level of desperation that enforces politics by bribery, violence, rigging and the manipulation of the electoral processes. All these plays down on the Rule of Law.

The Theory of Anomie

Anomie is a state that makes peculiar people living in a given society to feel alienated and not connected to their society because they seldom perceive the norms and core values for which the society stands and is known for and that which makes up the entire good image of such given society; of which the individuals in such society hold very dear. Smith (2008), pointed out that such state as this makes some persons in the society perceive it that the role they play (or played) and their identity is no longer valued by the society. Thus Crossman (2019), maintained that this scenario of Anomie can foster the feeling that one lacks purpose, engender hopelessness, promote and encourage deviance, violence and crime in general.

The Theory of Anomie according to Messner, Thome and Rosenfeld (2008) stipulates that Anomie is a social condition in which there is a decomposition or disappearance of the norms and values that were initially acceptable and familiar to the society. The concept, thought of as “normlessness”, was developed by the founding sociologist, Emile Durkheim. This typically occurs during a period of profound social change chaos, and disorder; such as a time of economic collapse. People become more aggressive or depressed: loss of direction now set in, in such a society because social control of individual behaviour has become ineffective. Deflem (2015), stipulated that in an Anomie stance, the society provides little moral guidance to individuals. Deflem (2019), also went ahead to expatiate that this develops from clash or discordance of belief systems and results in disintegration of social bonds between a person and his society. In an individual according to Gerber and Macionis (2010), this can progress into a dysfunctional ability to assimilate into or within the laid down ethical rules of their social world; for instance, a rude personal stance that results in fragmentation of social identity and rejection of values.

A situation whereby election is rigged on continuous basis in a country; Anomie condition will definitely set in. in Nigeria for instance, the citizens had actually lost hope in the government as they see everything in her governance as manipulative and corrupt. Recently, some citizens of Nigeria take laws into their hand as they get involved in dispensing jungle justice; at times they go to the extent of attempting to lynch, embarrass and taunt persons in the reigns of government and exalted public offices even beyond the shores of Nigeria.

Neo-Welfarism Theory

Neo-Welfarism as a political theory was propounded by the foremost African Nationalist Late Dr. Nnamdi Azikiwe as Madubuko (2008), recorded. Azikiwe defined Neo-Welfarism as:

An economic system which blends the essential elements of capitalism, socialism and welfarism in a socio-economic matrix, influenced by Indigenous Nigerian mores, to enable the state and the private sector to own and control the means of production, distribution and exchange, whilst simultaneously enabling the state to assume responsibility for the social services, in order to benefit the citizens according to their needs and officially-specified minimum standards, without prejudice to manipulation in any aspect of the social services by voluntary agencies. (pp. 591-592).

With this practice in the Nigerian political sphere, it will ensure the employment of basic democratic principles in the Nigerian politics and fizzle out elements of the ills of Elite theory which includes god fatherism, political party domination and all forms of election riggings as all these equally constitutes the major challenges to the Rule of Law in Nigeria. This will blend well with the Nigerian African cultural heritage and understanding, and as well keep the average Nigerian irrespective of the tribe happy while giving all the sense of belonging. The government and the citizens in the country will be working hand in glove and not leasing every aspect of the economic activities entirely on the hands of the government or the public nor the private sectors: This will definitely leave no room for tribalistic agitations in Nigeria and individualistic bikerings that leads to violent agitations and the abuse of the Rule of Law: As well as serving as a restriction on the government excesses pertinent to being intoxicated with power and authority.

According to Azikiwe (cited by Madubuko, 2008), Neo-Welfarism as a suitable political system for Nigeria should be based on two schools of thought: eclecticism and pragmatism which themselves are rooted on rationalism and empiricism. Its eclectic foundation is in the fact that it incorporates in its system the most utilitarian and practicable elements in capitalism, socialism and welfarism that can be adapted to the Nigerian situation and experience. Neo-Welfarism founded on eclecticism and pragmatism therefore sifts and synchronizes into a social matrix the best elements from capitalism, socialism and welfarism. It permits private enterprises, but invites the state to participate and collaborate in their management, control and sponsorship in order to achieve the best welfare for the people. It will produce a planned, mixed and indigenously nationalized economy.

In concrete terms, according to Madubuko (2008), the main objective of Neo-Welfarism is to restore democracy in Nigeria with political freedom, economic security and social equality. Stated clearly, it follows:

- The reform and renewal of instruments of power according to Nigerian political experiences.
- The insistence on the Rule of Law.

- The total restoration and reinforcement of the fundamental Rights of all citizens according to the constitution.
- The dedication of the universally accepted principles of the separation of powers between the Executive, Legislative, and the Judiciary.
- The renewal of confidence in the integrity of government.
- The good organization and administration of public utilities, welfare services, education, agriculture, recreational facilities and entertainment,
- The open door policy in importation and exportation of products.
- The taxation policy according to reasonable scale.

Bedrock of the Abuse of the Rule of Law in Nigeria

Irrespective of the fact that this work is focused on the socio-political parlance of Nigeria between 1999 and 2019. Attempt will be embarked on here to trace the circumstances that fostered the seeming prevailing abuse and violations of the Rule of Law in Nigeria. In this regards, it can be traced to the military regime in Nigeria. Military administration in Nigeria is necessarily a regime of autocracy and force field. Their mode of inception to the reins of governance is usually forceful and usurpation of the existing political and constitutional order in a manner not contemplated by the constitution as Akanbi and Shehu (2012), pointed out.

Military rule was experienced in Nigeria mainly between 1966 and 1998 with only periodic or recurrent civilian administration. The irony of the military rule scenario is that after gaining ascendancy into power via coup de tat, they more often than not preach total submission to the Rule of Law. The truth is that gaining power through the barrel of the gun as against casting of votes in elections proper, does not follow the contents and principles of the Rule of Law by any standard. One can rightly declare that the origin of the violations of the Rule of Law can simple be directed to the mode through which the military men assume leadership positioning in government in African countries especially Nigeria as A.I. Okuodu (personal communication, July 31 2019), maintained. Forceful mode of gaining power in Africa especially by the military makes one begins to wonder the kind of training they receive in their barracks. The western work military and marine are far more refined than that of Africans.

The manner of violence, bloodshed and vandalism of properties that the military coup de tat features in African countries especially Nigeria can best be described as “barbaric and demonic massacres”. In so doing, lives are wasted, peoples acquired properties destroyed, persons or groups seen as opposition are imprisoned without trials. Some are even court-martialed and killed straight on. All these does not flow with the stipulations of the rule of law. Little wonder in

most African countries, citizens often take to unleashing jungle justice on fellow humans whether as punishment for crimes committed as experienced more often than not in the Nigerian situation; and as jealousy for foreigners great strives and achievements in a land that is not their own as currently happening in South African's Xenophobic attacks on foreigners.

O, Izuogu (personal communication, June 29 2019), pointed out that the worst form of man's inhuman treatment to fellow man and indiscipline in governance was at its peak during the military regime in Nigeria. The military thus only preach the Rule of Law in principle. They are actually the law in themselves and ought to be obeyed. They are God amongst men and thereby are infallible. This actually formed the bedrock of the violations of the Rule of Law in Nigeria which is actually the major challenge it faces. The gross violations of the Rule of Law by the military is purely depicted by the Assertion by Akanbi and Shehu (2012), thus:

Wherever a military government came to power, certain provisions of the existing constitution are suspended through the usual constitution suspension and modification Decree. This process was usually an attempt to maintain power, gain legitimacy for the government and to ensure that popular discontent with the military was killed without minding the considerable erosion of the Rule of Law.... Basically, the military is characterized with suspension of certain provisions of the constitution, abuses of human rights, dismissal of democratic institutions (executive and legislature) though leaving the judiciary that cannot just be washed away under any disguise, but not without some bruises; restriction of jurisdiction of the courts by decrees. With this there was a running battle between the courts and the military, with the courts flying to jealously guided their jurisdiction on the one hand, its actions go unchallenged on the other hand. But as usual, the courts have the judgement, but no enforcement machinery (p.3).

Little wonder Chief Obagfemi Awolowo (cited by Ogerie, 2002), declared that under the military rule, the rule of law is not absolutely or totally suppressed, but largely in abeyance. Thus totally inactive for the moment they are in power. One can now understand vividly what fanned the embers of the track records of gross abuse and violations of the Rule of Law in Nigeria especially within the years under study in this work.

Challenges to the Rule of Law: The Nigerian Core Situation between 1999 and 2019

Irrespective of the fact that Nigeria as a state has laid down constitution expected to be supreme and strictly adhered to by all and sundry. It is however quite unfortunate that the reverse is the case at certain given circumstances and spheres. Instances in concrete situations where the Rule of Law is grossly challenged via its violations in Nigeria abounds viz:

The Nigeria Political Terrain:

The present democratic dispensation in Nigeria ensued on the 29th of May, 1999. In principle, Nigeria operates a democratic form of government, both in choosing the leaders and in administration proper. In practice however, it is seldom implemented. This then is contrary to the assertion of Plato (cited by Efebeh, 2015), that Democracy, the Rule of Law and good governance are the basic elements that are expedient for the existence of an "ideal state". Employing the Democratic form of governments implies that the Rule of Law ought to be in practice and realized in such a given state. Submitting to the Rule of Law as well will definitely effect genuine democracy and good governance in the actual sense in any state. The truth still remains that cases of election rigging especially by governments in power at certain periods remains obvious. In lieu with that Ogundiya (2010), once asserted that irrespective of the fact that Nigeria commenced the employment of democratic form of government since May 1999, yet little or no significant impact had been made by that on the socio-economic, socio-political, socio-Religious and the general well-being of the country and her citizens at large. This of course is so owing to the manipulative nature and character of the Ruling Elite. Thus from the postulation of the Elite theory, it is obvious that the "so called", Ruling Elites or Each government in power and its political party keeps infringing on the elections results to see that their candidates emerge the winner against the public mandate.

Describing the April 14th and 21st elections of 2007, Spio-Garbrah (2007) pointed out then that the irregularities that marred it in favouring the People's Democratic Party (PDP), showed that the party effectively controls almost all institutions of the state, save the judiciary, and is willing to use it against political enemies. In like manner, Ayo Adebajo (cited by Erezi, 2019), Omokri (cited by Olowolagba, 2019), and Atiku Abubakar (cited by Adenekan, 2019), all lamented that the 2019 presidential election in Nigeria was rigged. These allegations are still hanging in the air as one cannot substantiate how factual they are, neither had they been disproved. In lieu of the foregoing, the question once asked by Spio-Garbrah, is yet to be answered and it still runs thus:

If the very basic definition of a democracy is a government that exists by the consent of the governed, then the just-ended general

elections in Nigeria, which brought the country a new government, also produced a highly questionable democracy. (p.1)

Government in Power Violations:

It is quite obvious that most times the peculiar government in power in Nigeria at each given epoch assumes the position of God. There exists several cases of unlawful detentions orchestrated by the government; gross abuse on fundamental human rights backed up by the constitution especially as related to the freedom of expression; government disregard and disrespect for court orders, and the list goes on.

The administration of Chief Olusegun Obasanjo between 1999 and 2007 had been described by John (2011) as the worst when it comes to compliance with the Rule of Law. In his words he declared that "Obasanjo's regime was also an embodiment of executive lawlessness in Nigeria" (p. 212). He cited the instances of how despite the judgement of the supreme court on the feuds between the Lagos state government and the Federal Government over the failure to remit funds allocation meant for local government councils in Lagos; the defaulting party, which happens to be the federal government defied the court orders and went ahead in pursuing the case which was basically improper as if they are placing the judiciary in a tight corner to submit to their disobedience and rule in their favour: whereas, the constitution of the federal republic of Nigeria as amended (2011), stipulates that the reason for the constitution to be upheld is 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. (p.19) pressing to reverse a court judgement as this can in no way enhance peace in the country.

Again, when Former President Obasanjo embarked on his 93rd trip abroad on June 10, 2002, this Day newspaper (cited by John, 2011), described the trip as frivolous, capricious and whimsical; when other papers like the MID-Day news attempted an exposition on those trips geared towards actualizing personal goals, the former president Obasanjo quickly embarked on a witch-hunting campaign against journalists. More often than not the press in Nigeria is often subject to scare tactics and intimidation as Egede (2007), asserted. Journalists were subjected to chats with the state security service that involved threatening and possible imprisonment. Recently, under the present President Buhari's regime, African Independent Television (AIT), was shut down. Elebeke (2019), recorded that the National Broadcasting Commission (NBC) suspended the operating license of the Daar Communications Plc, operator of AIT and Ray

Power. The Director General of the NBC, Dr. Modibbo Kawu said that the decision was based on the violation of the broadcasting code by the stations which is backed by provisions of section 10 of the third schedule of the NBC Act Cap VII Laws of the federation of Nigeria, 2004. The decision was equally effected as a result of the failure of the broadcast stations to pay their license fees as when due; despite the persistent warning to the company to toe the line of cautions. However, Ogbolu (2019), alleged that it was shut down because they attempted an exposition on the stance that the 2019 Presidential election is basically surrounded with profound irregularities.

This was probably why Amnesty International and Former Minister of Education, Mrs Oby Ezekwesili (cited by Akinkuotu, 2019); jointly slammed the federal government for such action; while describing it as an attempt to stifle free press, a ploy to undermine independent media and freedom of the press; a serious blow to freedom of expression and Nigerian right to information about critical developments in the country; and finally as dictatorial, arbitrarily and blatantly illegal. A good number of human rights groups including socio-economic rights and accountability project called for the bann to be lifted. It is however worthy of registering as Ejike (2019), recorded that the bann was later lifted, following a restraining order issued against the National Broadcasting Commission (NBC) by a federal High Court in Abuja.

It is quite unfortunate that the peculiar government in power in Nigeria more often than not are so scared of criticisms even if they are constructive. They go to the extent of shutting individual persons down via threats or unjustified incarceration even without trials out of fear of being exposed: This they do regardless of the fact that under the fundamental human rights in the Nigerian constitution section 39; every citizen is entitled to the right to freedom of expression, including freedom to hold opinions and to receive and impart ideas and information without interference. Moreover, section 34(1) and 35 (1 and a) in th the same fundamental human rights of the Nigerian constitution stipulates respectively that: every individual is entitled to respect for the dignity of his person, and accordingly ... no persons hall be subjected to torture or to inhuman or degrading treatment ... no person shall be held in slavery or servitude. As well as, that every person shall be entitled to his personal liberty and no person shall be deprived of such liberty save in accordance with a procedure permitted by law ... especially in execution of the sentence or order of a court in respect of a criminal offence of which he has been found guilty; or that there are clear cut indications of such a persons readiness to commit a crime. Quintessence of the abuse of this afore-stipulated constitution is the arrest of Sowore. Wahab (2019), registered the arrest of the publisher of the news websites, Sahara Reporters and

Presidential Candidate of the African Action Congress (AAC) in the 2019 presidential election, Omoyele Sowore, by the operatives of the Department of state services. This arrest is basically unlawful as it was alleged that the persons that arrested him used hoods in covering their faces. The reasons related to his arrest is still being speculated upon. However, according to Adetayo, Akinkuotu, Ogundele, Adepegba, Adesomoju et al (2019), he is being investigated for treason-related allegations. He was equally to be detained according to court order for 45 days. In spite of all these, many organizations including the European Union, Afenifere Committee for the Defence of Human Rights, Socio-Economic rights and Accountability Project, free Nigeria Movement and Senior Lawyers including Mr Femi Falana (SAN) who is Sowore's Lawyer and Mike Ozekhome (SAN); jointly faulted the order; while calling for Sowore's unconditional release. In this vein, one can simply understand why Nigeria was described as "partly free" in the freedom of the press consistently since 2011 till date according to the report published annually by Freedom House.

Jungle Justice mostly dispensed by the citizens:

In lieu with the theoretical framework, pertinent to the theory of Anomie. One reckons that citizens of this country more often than not inflict pains and unleash undue reflex violence on each other especially when they perceive that someone had committed a crime or expressed any form of wild immoral, abnormal and indecent or criminal act. By this, they take laws into their hands without being rational enough to take such cases or report it to the law enforcement agencies already in place in the country. This kind of massive open violence unleashed on those perceived as criminals or breaking the law without being tried and found guilty is referred to as jungle justice.

Describing the rate at which jungle justice is dispensed in Nigeria Ayomide (2016), declared in his words:

Our society is barbaric, it kills the poor and praises the corrupt. Tyres and a keg of petrol are quick to surface when someone yells "thief" in a neighbourhood. Within few minutes, a crowd gathers and descends on the "suspected thief". His skull is cracked and his ribs are broken before his almost lifeless body is tossed into the flames ... it is very rare to find a Nigerian who has not seen the charred corpse of a suspected thief killed by a mob. (p.1.).

This they do with total disregard to the federal constitution of Nigeria that stipulates under the fundamental human rights section 33; that every person has a right to life, and no one shall be deprived intentionally of his life, save in execution of the sentence of a court in respect of a criminal offence of which he

has been found guilty in Nigeria. However, the reason for actions as this is mainly that the masses have lost confidence on the police and the government. They upheld that bad governance, bribery and corruption and the law enforcements agencies irregularities pushes them to such actions. In Ayomide's view, this jungle justice equally depicts the Nigerian citizens double standard in dealing with poor people who commit crimes and rich people who commit crimes. The most painful part of this jungle justice is that penalties undeserving a peculiar crime is passed on such crimes, thereby resulting in minor crimes receiving grave and barbaric sentences. There is no standard in dispensing justice and most times, innocent people fall victims of circumstances.

In an attempt to trace the history of jungle justice in Nigeria, Tinibu (2019), asserted that jungle justice or mob justice is a form of public non official killings in Sub-Saharan Africa, and most notably in Nigeria and Cameroon. He maintained that the reason for such dastardly acts is the dysfunctional and corrupt judiciary system and law enforcement in these states. Implying that most government units and officials have lost all credibility in such states. Tinibu equally defined jungle justice as that which occurs when a crowds individual vigilantes humiliate, beat, punish or summarily execute criminals in front of people. He ended up tracing the popularity of jungle justice (as it's core origin in Nigeria is not certain) in Nigeria to the creation of the non-governmental armed group that was established in 1999 popularly known as the Bakassi Boys. This Bakassi Boys went into a killing spree in the name of seeking justice especially in the eastern parts of Nigeria. They end up leaving piles of burnt up and charred human corpses in the streets.

Cases of individuals that were killed in jungle justice abounds: The story of Aluu four, wherein four students of the university of Port Harcourt were horribly killed after hours of tortures. The bitter part of this story was that these boys were falsely accused as Ezea (2017), recorded. The story of a boy that allegedly stole garri while some maintained that he stole a phone and was later burnt alive by the mob in Lagos state as recorded by Tinibu (2019). Some people painfully lamented and declared that the boy was even seven years old. Killing of a soldier, Lance CPI. AYUBA Ali in mob action. Ali, as recorded by Tinibu was in mufti while passing Agwan Affi area of Akwanga in Nasarawa state on a motorbike from Maiduguri when he hit a hawker unknowingly. As he stopped to pacify the hawker, altercation ensued between him and some irate youth in the area, who pounced on him and beat him into coma. He died later in the hospital. Killing of several suspected ritualists in different parts of Lagos state in mob actions between 2000 and 2013. Reported cases of mob actions across Edo State as Tinibu recorded: Even the police have been accused severally of killing

suspected criminals without passing them through the judicial process. The list goes on and on. All these are challenges to the Rule of Law in Nigeria. Jungle justice does not follow due process. These irregularities hampers the development of Nigeria greatly.

In all, the Rule of Law is simply projected mainly in principle in line with the instances afore-sampled. Even those that it lies in their jurisdiction to see to it that the Rule of Law is upheld equally abuse the legalistic stipulations of the Rule of Law. The law enforcement agencies especially the police most times go on arresting and detaining individual persons in an unlawful mode. This was exactly what once propelled the House of Representatives Committee on Human Rights in 2018 according to Agency Report (2018), to mandate the National Human Rights Commission (NHRC) to furnish it with the list of Nigerians unlawfully detained by the police. The House insisted on their forwarding these names owing to the fact that there are crime records in all the police stations in Nigeria: Especially of people who were arrested and kept beyond the constitutional timeline. This will keep the police on their toes and make them wary of the fact that they are being watched closely.

In the same vein, the judicial system itself passes judgement at times to buy the favour of the peculiar government in power. Recently the judgment passed on the 2019 presidential elections tribunal had been described by the opposition party (cited by Oladesu, Salaudeen, Odoshimokhe, Ehikoioya, Ogunnwale, Okodili, et al, 2019), as a perversion of justice, and a direct assault on the integrity of the nation's justice system. One begins to wonder what the implication will entail for Nigeria where a court will rule that one only has to swear to an affidavit, detailing his personal information's, including academic qualifications in order to contest for a political position in Nigeria. What happens to the simple arithmetic of presenting original certificates of those academic qualifications as a proof of concrete reality. Thus, irrespective of the fact that the party in power and some person's at the reins of government, who are benefiting from the government are applauding the judgement not minding its associated irregularities; one keeps wondering if this is actually the heartbeat of the citizens of Nigeria. According to Sahara Reporters, the Human Rights Association of Nigeria on their own condemned the judgement, stating that the Nigerian judicial system:

As it is currently constituted is dysfunctional, is compromise is tainted politically, is populated and driven physically by people with the wrong mindset who are not patriotic, who are not committed to the real essence of justice as it should be. (p.1).

Others who vehemently condemned the tribunal's judgement includes; Ologbondiyan, Galadima, Babatope, Odion, Akhaine and Obaze. According to Oladesu, Salaudeen, Odoshiomokhe, Ehikioya, Ogunwale, Okodili et al (2019), they advised Atiku to appeal the judgement at the Supreme Court, adding that the case should be pursued to the logical conclusion.

The Effects of the Abuse of the Rule of Law in Nigeria

Having analysed the Nigerian situation via historical and theoretical approach in respect of the challenges to the Rule of Law. The major challenge to the Rule of Law from the findings of this work is simply the gross abuse and neglect to that rational stance that ought to keep a nation functioning. The Nigerians situation vis a vis respect to the Rule of Law can be likened to the case "between the lion and the animals in the jungle". The lion does not respect laws, the privacy nor the sanctity of the life of any animal in the jungle as anything it can defeat is not only its prey, but its food. The Nigerian situation even appears to be more delirious in the sense that almost everyone perceives oneself in one way or the other as "the Lion; and therefore is the king wielding absolute power all in oneself and by such a one". The resultant effects of there gross violations of the Rule of Law are as follows:

- It facilitates and fosters a failed state: A country were the Rule of Law is abused with max impunity; corruption, negligence, indifference, falsehood, unpatriotism, hatred, bigotry, violence, terrorism, vandalism, murder, lawlessness, and jungle justice will gain ascendancy. The government cannot resolve such set situations. Such a state is a failed state. This is presently the case in Nigeria.
- It produces a weak administration: Abuse of the Rule of Law creates a state of Anomie. The citizens will no longer have confidence on the government and all within the corridors of power in such a nation. Lawlessness will abound while those within the reins of government will be striving towards enriching themselves and pursuing their whimsical and capacious goals. There is no way in the world such a government will bring stability to such a chaotic scenario. Cry for secession will be on the increase while various insurgent groups will arise. The citizens of Nigeria presently are embarrassing most political appointees and government officials in Nigeria whenever they travel outside the country. They even go to the extent of unleashing violence on them.
- It hampers growth and development: Foreign investors may find it difficult to come in and invest in such a country while the citizens of such a country will always be on the move to travel beyond the shores and

borders of such a country on the quest for greener pastures. This will definitely affect the economy of such a given state as is currently witnessed in Nigeria.

- It breeds insecurity: One cannot boast of being safe in the hands of the police nor the masses in Nigeria. Violence has graduated to terrorism and the country is in perpetual state of insecurity. The Fulani herdsmen barbaric killings, incessant that has gone rite, and kidnappings indiscriminate killing of the citizens by the law enforcement order personalities and so on typifies the level of insecurity in Nigeria.

Solutions to the challenges of the Rule of Law in Nigeria

The solutions to the challenges of the Rule of Law in Nigeria is not far-fetched. Irrespective of Nigerian's high level of religiousity and claims to be core traditional in perspective; the average Nigerian seldom projects the simple virtues of integrity, patriotism, sincerity, gravity, good legacy, humility, truthfulness, selflessness and charity. These simple virtues will do more than the magic or miracle (as one chooses) that is required to put to stop the gross abuse of The Rule of Law in Nigeria and restore sanity to the land that God has endowed with innumerable mineral and human resource that had never been properly harassed.

This work strongly projects that when those at the reins of government in Nigeria learn to abide completely to the contents of the Rule of Law, the rest of the citizens will ordinarily and naturally follow suit. The gleg observation of Achebe (1984), is worthy of stipulating at this point thus:

The trouble with Nigeria is simply and squarely a failure of leadership. There is nothing wrong with the Nigerian character. There is nothing wrong with the Nigerian land or climate or water or air or anything else. The Nigerian problem is the unwillingness or inability of its leaders to rise to the responsibility, to the challenge of personal example which are the hallmarks of true leadership. On the morning after Murtala Muhammed seized power in July 1975; public servants in Lagos were found "on seat" at seven-thirty in the morning. Even the "go-slow" traffic that had defeated every solution and defied every regime vanished overnight from the streets! why? The new ruler's reputation for ruthlessness was sufficient to transform in the course of only one night the style and habit of Nigeria's unruly capital. That the character of one man could establish that quantum change in a people's social behavior was nothing less than miraculous. But it shows that social miracles can happen. (p.1.).

Leadership can only effect changes in the lives of the led via being exemplary. Actions speaks louder, and much louder at that than volumes of theories and empty political rhetorics. Good legacy plants an indelible print in the sand of times.

Finally, the contents of the theory of Neo-Welfarism is equally being submitted by this work as that which when employed in Nigeria, will aid in putting the leaders in check and as well stand as a formidable bedrock of true democracy in Nigeria.

This theory gives every citizen a measure of access and franchise in deciding who emerges the leader and as well as how each peculiar government administration will function; pertinent to the good will of every one in the country. It will break the arbitrary strongholds of authoritarianism, elitism and Anomie: While upholding and securing a down to earth, pragmatic and result oriented democracy in Nigeria devoid of every trace of tribalism, favouritism, nepotism, election rigging, bribery, corruption, revolutions and insurgencies that often propels the abuse of the Rule of Law.

Conclusion

The Rule of Law is a principle that is put in place to ensure that human greed, insatiable excesses for dominance, power and lawlessness is controlled. It is a tool for maintaining sanity and peace in the society. The Rule of Law is there to enforce the respect for the basic fundamental human rights by all and sundry. This implies that a society where the contents of the Rule of Law is constantly challenged by gross abuse of its precepts will simply become ungovernable, barbaric, uncivilized, parochial, unprogressive and lending leadership opportunities in the hands of a “dominance sect”: Nigeria is tilting towards the extreme end in featuring all these afore-mentioned ill-traits and misfortunes in her society.

Every society in the cosmos possesses the innate ability to harness their God given resources in a selfless, stance for the benefit of all in order to ensure growth and wellbeing of the society and her inhabitants. In maximizing the use of these resources and God given potentials; there is a need to ensure equitable allocations and usage. This is where governance comes in. In order to ensure good governance, peace, sanity and stability in the society, the Rule of Law should be upheld in principle and core practice. The challenges to the Rule of Law in the human society and Nigeria in particular is simply the result of materialism narrow mindedness, selfishness, greed, addiction for power, pride and other related vices. The historical and theoretical analysis proffered in this

work combined with the corollary solutions will go a long way in effecting the respect and application of the Rule of Law in Nigeria.

Recommendation

The in-depth research carried in the course of this work is spurring the recommendation for every citizen of Nigeria to learn to have confidence in God and God given abilities in their lives to survive as humans. They should learn to bring their rationality into focus in handling issues bothering on politics (choosing her leaders), national welfare, justice, law and order, economic activities, constitutions, policy making and in proper implementation.

This work strongly recommends that the citizens of Nigeria should learn to uphold dignity, good image and name, patriotism as against whims and caprices, and good legacy: They should internalize the fact that side talks, false accusations, character assassination, unlawful detention, and ingratitude can never write off good works. Good works is positive result oriented and beneficial to all and sundry.

Core democracy should be practiced in Nigeria: Not an indigenized or homemade democracy that features election rigging, unjust disenfranchisement of certain citizens, lies, irregularities and indecencies of the highest. Rather a democracy that upholds and promotes the basic tenets of democracy which includes amongst others: popular sovereignty, political equality of all citizens; free fair and frequent elections (frequent in the sense that it must be held often enough to enable the people to exercise their control of government); alternative sources of information (... will enforce freedom of the press); liberalism constitutionalism (the use of constitutions to limit government by Law).

Military-Atavism, a situation wherein a military man after resignation or retirement will come up to context in a democratic government election should be discouraged completely. Military men should face their core duty and responsibilities as military men and allow the smooth running of the government for civilians. It is obvious from the findings of this work that some of the democratic president of Nigeria so far were once military men before being elected into office. Little wonder they employ mostly authoritarian form of leadership. This in turn leads to their gross abuse of the Rule of Law in various circumstances.

At best, such a government as afore-mentioned can only employ the form of government directly contrary to democracy which is according to Adeniran (cited by Odey, 2003), referred to as Demofascism. Adeniran (cited by Odey), defined this as:

A totalitarian philosophy of government which glorifies state, promotes its control by a powerful few and over all aspects of national life without regard to the rights and capacity of the people to determine their own fate... The institutional framework is democratic, the practice is fascistic ... Opportunism reigns and the individual is subordinated to the wishes of an opportunistic clique ... Moreover, the survival of the fittest doctrine is practiced within the context of institutional brutality. Dissent amounts to crime and each person is expected to function within the enslaving confines delimited by the controllers of state power. (pp. 8-7).

This at best characterizes what Nigeria have in place as democracy. There is no way on the mother earth can the Rule of Law be upheld in the face of such a government.

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