



The Effects of ‘Non-Handing Over’ Governance in a Democratic Nigeria

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ABSTRACT

Recent political and legal developments on Nigeria’s former President Umaru Musa Yar’Adua’s inability to formally handover governance to the Vice President (Dr. Goodluck Jonathan), have attracted scholarly attention, public opinion and a historic consolidation of democracy in Nigeria. The author examined Sections 143, 144, 145 and 146 of the Constitution of the Federal Republic of Nigeria to cement her analysis that the effect of former President Umaru Musa Yar’Adua non-handing over governance to the Vice President was amicably resolved by the National Assembly and the Judiciary, without resort to military intervention, so as to avert any likelihood of threat to democracy, disintegration and instability of governance. The findings are sufficiently strong to warrant a rethinking of some critical challenges of governance, political leadership and that democracy can be sustained in Nigeria through the application of the formal aspects of politics: rules, organization, procedures and constitution. The author concludes that the combination of the above factors and the likely negative consequences by the international community against Nigeria, occasioned the swearing of Dr. Goodluck Jonathan as Nigeria’s President.

INTRODUCTION

The former Nigeria’s President Yar’Adua has repeatedly been rushed abroad for medical treatment to Germany and Saudi Arabia in 2007, 2008 and 2009, without informing the National Assembly of his absence or handing over governance to the Vice-President (Dr. Goodluck Jonathan). The latest was on November 23, 2009, when he was again rushed to Saudi Arabia for a medical emergency. It was revealed that he had Pericarditis, a hardening of the lining around the heart. His absence from Nigeria and a lack of forthcoming information on his condition or when he would return, created a power

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vacuum as several matters of national importance have been left unattended to, as Dr. Jonathan is unable to act for his boss.

The relevant provisions of the Constitution of the Federal Republic of Nigeria, are Sections 143, 144, 145 and 146 which will be recited thus:-

By Section 143 (1) The President or Vice-President may be removed from office in accordance with the provision of this section.

- (2) Whenever a notice of any allegation in writing signed by not less than one-third of the members of the National Assembly:-
 - (a) Is presented to the President of the Senate;
 - (b) Stating that the holder of the office of President or Vice-President is guilty of gross misconduct in the performance of the functions of his office, detailed particulars of which shall be specified, the President of the Senate shall within seven days of the receipt of the notice cause a copy thereof to be served on the holder of the office and on each member of the National Assembly, and shall also cause any statement made in reply to the allegation by the holder of the office to be served on each member of the National Assembly
- (3) Within fourteen days of the presentation of the notice of the President of the Senate (whether or not any statement was made by the holder of the office in reply to the allegation contained in the notice) each House of the National Assembly shall resolve by motion without any debate whether or not the allegation shall be investigated.
- (4) A motion of the National Assembly that the allegation be investigated shall not be declared as having been passed, unless it is supported by the votes of not less than two-thirds majority of all the members of each House of the National Assembly.
- (5) Within seven days of the passing of a motion under the foregoing provisions, the Chief Justice of Nigeria shall at the request of the President of the Senate appoint a Panel of seven persons who in his opinion are of unquestionable integrity, not being members of any public service, legislative house or political party, to investigate the allegation as provided in this section.
- (6) The holder of an office whose conduct is being investigated under this section shall have the right to defend himself in person and be represented before the Panel by legal practitioners of his own choice.
- (7) A Panel appointed under this section shall:-
 - a. Have such powers and exercise its functions in accordance with such procedure as may be prescribed by the National Assembly; and

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- b. Within three months of its appointment report its findings to each House of the National Assembly.
- (8) Where the Panel reports to each House of the National Assembly that the allegation has not been proved, no further proceedings shall be taken in respect of the matter.
 - (9) Where the report of the Panel is that the allegation against the holders of the office has been proved, then within fourteen days of the receipt of the report, each House of the National Assembly shall consider the report, and if by a resolution of each House of the National Assembly supported by not less than two-thirds majority of all its members, the report of the Panel is adopted, then the holder of the office shall stand removed from office as from the date of the adoption of the report.
 - (10) No proceedings or determination of the Panel or of the National Assembly or any matter relating thereto shall be entertained or questioned in any court.
 - (11) In this section- “gross misconduct” means a grave violation or breach of the provisions of this Constitution or a misconduct of such nature as amounts in the opinion of the National Assembly to gross misconduct.

By Section 144 (1) The President or Vice-President shall cease to hold office, if:-

- a. By a resolution passed by two-thirds majority of all the members of the executive council of the Federation it is declared that the President or Vice-President is incapable of discharging the functions of his office; and
 - b. The declaration is verified, after such medical examination as may be necessary, by a medical panel established under subsection (4) of this section in its report to the President of the Senate and the Speaker of the House of Representatives.
- (2) Where the medical panel certifies in the report that in its opinion the President or Vice-President is suffering from such infirmity of body or mind as renders him permanently incapable of discharging the functions of his office, a notice thereof signed by the President of the Senate and the Speaker of the House of Representatives shall be published in the Official Gazette of the Government of the Federation.
 - (3) The President or Vice-President shall cease to hold office as from the date of publication of the notice of the medical report pursuant to subsection (2) of this section.
 - (4) The medical panel to which this section relates shall be appointed by the President of the Senate, and shall comprise five medical practitioners in Nigeria:-

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- (a) One of whom shall be the personal physician of the holder of the office concerned; and
- (b) Four other medial practitioners who have, in the opinion of the President of the Senate, attained a high degree of eminence in the field of medicine relative to the nature of the examination to be conducted in accordance with the foregoing provisions.

(5) In this section, the reference to “executive council of the Federation” is a reference to the body of Ministers of the Government of the Federation, howsoever called, established by the President and charged with such responsibilities for the functions of government as the President may direct.

By Section 145 Whenever the President transmits to the President of the Senate and the Speaker of the House of Representatives a written declaration that he is proceeding on vacation or that he is otherwise unable to discharge the functions of his office, until he transmits to them a written declaration to the contrary such functions shall be discharged by the Vice-President as Acting President.

By Section 146 (1) The Vice-President shall hold the office of President if the office of President becomes vacant by reason of death or resignation, impeachment, permanent incapacity or the removal of the President from office for any other reason in accordance with section 143 or 144 of this Constitution.

(2) Where any vacancy occurs in the circumstances mentioned in subsection (1) of this section during a period when the office of Vice-President is also vacant, the President of the Senate shall hold the office of President for a period of not more than three months, during which there shall be an election of a new President, who shall hold office for the unexpired term of office of the last holder of the office.

(3) Where the office of Vice-President becomes vacant:-

- a. By reason of death or resignation, impeachment, permanent incapacity or removal in accordance with section 143 or 144 of this Constitution;
- b. By his assumption of the office of President in accordance with subsection (1) of this section; or
- c. For any other reason,

The President shall nominate and, with the approval of each House of the National Assembly, appoint a new Vice-President.

An interpretation of the Constitution suggested that a formal letter from the President was necessary to temporarily hand-over governance to the Vice-President. This interpretation left the Vice-President seemingly powerless to use executive powers and some citizens in outrage over the ensuring political confusion. Many groups and influential individuals encouraged the President, the National Assembly and the Judiciary to formally declare Dr. Goodluck Jonathan as the Acting President. The Senate

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equally requested a letter from the President informing them of his absence. However, a court decision that the President is not obligated to formally inform the National Assembly of his prolonged absences helped to clarify the Constitutional ambiguity of Section 145.

According to an adviser to the President, he will submit a letter by the end of the 12th of February, 2010, specifying “medical vacation” as the basis for his absence. Speaking before Senators, the Special Adviser to the President on National Assembly matters, Senator Mohammad Abba-Aji, stated:-

“The Senate has resolved and the resolution has been transmitted and we will all know the President to be a man who respects the rule of law; so I have no doubt in my mind that the President has never refused to comply with the law passed by the legislature, not to my knowledge”

Meanwhile, some notable lawyers have criticized Mr. Aondoakaa (the former Attorney-General and Minister of Justice) over the reports that he asked Dr. Jonathan to sign the N353.6 Billion 2009 supplementary budget passed by the National Assembly.

The reports said Mr. Aondoakaa had argued that the vice president or any minister could act on behalf of the president. He was said to have quoted section 5 of the Constitution, which stipulates that the president’s powers could be delegated.

The Minister for Information and Communications, Dora Akunyili, when contacted by NEXT (2010:2), claimed to be unaware of such a directive from the Attorney General: “*I have not been briefed on the matter. When I get briefed, I will let you know*”, she said. Also, Ima Niboro, the vice president’s special adviser on media said: “*I am not aware and I can assure you that the Vice President receive no letter*”. However, the President of the Nigerian Bar Association described the position of Mr. Aondoakaa as “*trying to turn the law on its head*”. Mr. Rotimi Akeredolu, who said he has not seen the letter by the Attorney General, however, said if the report is true, it will be presumptuous of the minister. Mr. Akeredolu said:

“Who is he? It must be presumptuous that he thought he has such powers. He has no such powers. His action is unfortunate and is not in accord with the provision of the law which we expect that he should know better. The position of the law is simple. The vice president is incapacitated and he cannot act. If the president is on vacation or he is otherwise incapacitated, they should have transmitted the declaration to the Senate to state clearly, under section 145, that he has that problem so that they can now swear in the vice president. He is the one vested with powers, having been sworn-in to take whatever step as the president would have done, for example, the swearing in of the Chief Judge of Nigeria.”

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The NBA President also warned the vice president to be wary of advice emanating from the table of the Attorney General. *“Let me state this very clearly, the Federal Executive Council and the Vice President should be very mindful of relying on advice from the Attorney General because he is certainly missing the point. He is not advising him as a lawyer. If he is advising him as a lawyer, he would advise them properly. His advice is suspect and they have to be very careful with him because the delicate balance on which the country is standing should not be allowed to fall with the likes of Aondoakaa.”*

On the comment linked to Mr. Aondoakaa that the Constitution does not require the Chief Justice to be formally sworn in, Mr. Akereolu accused the Attorney General of playing politics with everything. *“It is an unfortunate development. Without a president or a vice president who have been sworn in to act in that capacity, nobody can swear in a CJN and we don’t have a CJN. The approval of Senate has nothing to do with it.*

The fact that the President has been elected, until sworn in by the Chief Justice of Nigeria, would he become president of Nigeria? No. Just like if somebody has been the Senate to be CJN, will he just assume the office? No. The man does not know what the law provides of if he knows, he is trying to turn it on the head”. Wahab Shittu, a law lecturer at the University of Lagos, also believes the Attorney General is wrong over the report. *“Section 145 takes precedence, because the President is definitely on medical vacation and you cannot request the vice president to be acting without the consent of the president, who must say so in writing to the National Assembly,”* he said. Mr. Shittu also blamed the president’s advisers for the imbroglio:

“They should take the blame for not doing the right thing. He should have sent that letter before he left to the National Assembly. Without that, there is nothing Vice President Jonathan can do”.

Femi Falana, the President of the West African Bar Association (WABA) described Mr. Aondoakaa reported comment as, *“an illiterate talk”*. *“He is talking rubbish,”* he said.

Based on the above disturbing realities and the court decision, the National Assembly passed a Resolution to swear-in the Vice-President as *“Acting President”*. After the death of President Yar’Adua, the National Assembly also passed a Resolution that Dr. Goodluck Jonathan be sworn as the President of Nigeria.

Conceptual Overview of Leadership

Udogu (2000:113) observed that the issue of political leadership and the desire to produce men and women who command national legitimacy has been tough in all polities and this dilemma is probably more critical in the developing nations. Indeed, the assumption is that a good leader possesses

some significant attributes - qualities that are bestowed on the actor by the milieu in which leadership is demonstrated. Nevertheless, Boutros Boutros-Ghali (1998:2), a former Secretary-General of the United Nations, contended that leadership cannot be visualized only within the context of individuals and their decision to act in moments of conflict and inferred that leadership as a quality “may be more innate than acquired. Boutros then enumerated the following features as conducive to leadership characteristics: Vision, Eloquence, Cooperative Spirit, Courage and Political Intuition.

In general, having a clear vision suggests that in order for a leader to lead effectively she or he must have comprehend the nature of the society in which leadership role is to be performed. Thus, in order to construct a society that advances democracy, development and human rights, for example, a ruler must be able to articulate such a vision with eloquence in “Churchillian, Reaganesque and Castroan” oratorical skill, in a manner of expression. Possessing an adequate idea as to how a society is to be effectively governed and eloquence to galvanize various competing publics to action are important and useful variables only to the extent that the leader works in a cooperative spirit with the immediate elite and followers. This supposition is fundamentally significant because leadership cannot be demonstrated in a vacuum. Leaders’ inability and sometimes deliberate attempt not to connect with followers at the grassroots has solidified the doctrine of “the iron law of oligarchy” at the top level of the state system in developing nations with disastrous consequences for many citizens. Courage and political intuition imply that a leader may have to, from time to time, take or make decisions that work against corporate and elite interests in order to maximize the interest of the system as a whole.

Speaking on “Democracy and Leadership challenges in Latin America”, the former Brazilian President Fernando H. Cardoso alluded to the antinomy between facts and values, practice and theory, technical knowledge and political decision in the leadership calculus in any society, and posed the salient query: “what balance between these roles should be struck for a ruler to be successful”? He further opined: some may argue that there is no need for accommodation or compromise; politicians should simply abide by an ethic of responsibility and follow what they believe to be the most sensible and politically rewarding course, regardless of any technical consideration. I am afraid that today’s world does not allow for such a facile situation. Be it in the developed or in the developing world, politicians, once in office, are supposed to respond to an increasingly wide range of societal interests that are often clashing (Cardoso, 2003:1).

Writing on “Leadership for the Twenty-first century, learning from the Past”, John Mukum Mbaku (1998:vii) notes with lucidity that only fundamental measures and profound changes in leadership and its character can arrest the collapsing economic infrastructures and social conditions in the developing nations. Such a change could create the enabling environment for important improvements in the living standards of the masses.

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In the light of the politico-legal developments in Nigeria between November, 2009 and June, 2010, this paper will examine the Definitional and Conceptual overview of leadership, Concise theories of leadership, Modalities and Instrumentalities for promoting effective leadership, particularly political leadership in the Third World.

Definitional And Conceptual Overview Of Leadership

Robert Elgie (1995:2-3) observed that leadership is an abstraction and a social science concept, a concept whose meaning is socially constructed as an essentially contested concept - whose problematic meaning and explication is similar to those of power, influence, authority and control. To Elgie, leadership is an "intangible" variable of power and in all regions of the world, is a very perplexing concept. Yet, it is a critical quality necessary for the successful management of a society and its institutions. Indeed, many scholars have contended that, in so far as the Third World nations continue to elect, select or appoint ineffective and selfish leaders, the issue of bad governance and its associated problems of political instability, social malaise, corruption, lack of accountability and transparency, and the respect for the rule of law will persist in the developing nations (Udogu, 2000:116).

If there is an imputation that is peculiar to these definitions and explications of leadership attributes, it is that the nature and character of leadership (whether innate or learned) is puzzling. Further, the ability of a leader to influence others to accede to his or her ideologies, views and policies, cannot be separated from the unique composition of the society (based on cultural specificity and historicity) in which the leader endeavors to illustrate leadership features. Politically, the variables that tend to influence and explain an individual's leadership genre could be contextualized and clarified within some theoretical models.

Concise Theories of Leadership

Contextual and circumstantially, earlier scholarships on leadership as, for example, those of the German sociologist and economist, Max Weber, devoted tremendous efforts in attempts to unlock the secrets of personal traits that might make a "man" an efficacious leader (Gerth and Mills, 1958:35). Indeed, Weber investigated the issue of authority, status and legitimacy.

He posited three types of leadership styles: charismatic, traditional and rational-legal. According to him, as societies metamorphosed, they would advance from the first type through the second and eventually achieve the third type, which he construed as typical in "modern society". This conceptual focus is regarded in the realm of leadership studies as "The Great-Man Theory". This androcentric analysis of the leadership genre in society has, of course, been de-emphasized in later studies by scholars who assert,

inter alia, that there have been great women leaders too (Borgatta, 1954:755-759).

Be that as it may, it is axiomatic that there exist many theories - some of which are conflicting on leadership discourses. Put another way, the preponderance of theories suggests how intricate it is for scholars to explain successfully the complex web of suppositions on leadership. Nevertheless, the following extremely brief explanations on the principles of leadership are developed from an impressive seminal work of Jerome Adams and Janince D. Yoder Adams (1985:6) and augmented with analysis from other sources (Udogu, 2000:117). These leadership conjectures are trait, situation, contingency and transactional.

Trait Theory

This theory refers to the idiosyncratic attributes of the leader. In this framework, it is suggested that leadership and the quality of leadership itself is inherent in the personality trait or what Harold Lasswell termed character structure (Seligman, 1950:911). In this conjecture, leadership skill may be considered to be probably innate.

Situation Theory

In the eye of C. Sherif and M. Sherif, leaders are role players, and the leadership style depends on the situation in which actors find themselves (Sherif and Sherif, 1956:119). Roles, contend Edwin P. Hollander, are the expected behavior of those who occupy a position of leadership (Hollander, 1976:213). For Adams and Yoder, roles do not exist within individuals as treats do; roles arise from the social context in which they take place (Adams and Yoder, 1985:27). Leadership role is neither dormant nor static but changes circumstantially. Moreover, the character of leadership may differ among collectivities and with a specific organization over time.

Contingency theory

This theory explains a leadership genre that represents a blend or synthesis of trait and situation theories. It supposes that leadership emanates or results from the right mix of situational favorability and leadership is the extent to which leaders' trait and the properties of the situation in which they find themselves are well synchronized (Searing, 1969:3). An adequate match or synchronism of these factors in an individual's outlook could lead to the emergence of an effective leader.

Transactional Theory

Transactional view of leadership emphasizes a rather reciprocal or symbiotic relationship between the leader and follower within an organismic state, i.e.

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a polity in which the sub-national units function together, but in which the amalgamated entities or whole is presumed to be greater than the micro units. (Searing, 1969:10).

In truth, leaders within such an organismic entity or what (Udogu, 1990:166) termed nucleo-cytoplasmic state, may function effectively through symbiosis with followers and various sub-national groups in order to agglutinate the collectivities within the nation-state.

Adams and Yoder (1094:27) further contended that transactional leadership reflects "the mutual influence of leaders and followers" Leadership in this context is reflective of social exchange for a favourable balance of rewards and cost for themselves. Thus, transactional theory is rooted in the theory of social exchange.

In all, though, theoretical idealism and political realism are often contradictory in their application in many societies, especially in developing or Third World countries with low level of education and unstable political systems. However, theories tend to be important and useful tools for explaining genre in politically advanced polities with extremely high levels of education and development.

Modalities and Instrumentalities for Promoting Effective Leadership

Since political leadership issue has been problematic in virtually all societies and particularly more so in the developing nations, the question, therefore, is: what is to be done? The following discussions on how to improve the quality of leadership in the Third World are drawn in part from Robert I. Rotberg's book, *Progress and Problems of Governance and Leadership in Africa*. Specifically, the volume draws upon two important related documents, viz. the Mombasa Declaration and the Code of African Leadership of March 20, 2004.

The Mombasa Manifesto proclaims

Good leaders globally guide governments of national-states to perform effectively for their citizens. They deliver high security for the state and the person; a functioning rule of law; education; health; and a framework conducive to economic growth. They ensure effective arteries of commerce and enshrine personal and human freedoms. They empower civil society and protect the environmental commons. Crucially, good leaders also provide their citizens with a sense of belonging to a national enterprise of which everyone can be proud. They knit rather than unravel their nations and seek to be remembered for how they have bettered the real lives of the governed rather than the fortunes of the few (Mombasa Declaration of 20 March, 2004).

If the above enumerated attributes are essential elements that a positive leader in a society should imbibe, what are some of the behavioral characteristics that good leaders should eschew? The Declaration noted, inter

alia, the following: Less benevolent, even malevolent, leaders deliver far less by way of performance. Under their stewardship, roads fall into disrepair, currencies depreciate and real prices inflate, health services weaken, life expectancies slump, people go hungry, schooling standards fall, civil society becomes more beleaguered, the quest for personal and national prosperity slows, crime rates accelerate, and overall security becomes more tenuous. Corruption grows. Funds flow out of the country into hidden bank accounts. Discrimination against minorities and occasionally majorities becomes prevalent. Civil wars begin (The Mombasa Declaration of 20 March, 2004).

In order to give substance to the proclamation, a special Code of Leadership was promulgated. This Code, among other factors, affirms emphatically that African leaders and a priori Third World leaders serve their peoples and their nations best when they:

- i. Offer a coherent vision of individual growth and national advancement with justice and dignity for all.
- ii. Encourage broad participation of all levels of society, including all minorities and majorities, and emphasize the deliberative nature of the best democratic practices.
- iii. Demonstrate in their professional and personal lives deep respect for the letter and the spirit of the provisions of the national constitution, including strictly abiding by Terms Limits.
- iv. Lead by example and teach to acquaint their peoples with respect for dissent, the ideas of others, and the importance of disagreement between political parties and individuals.
- v. Respect international conventions and international laws.
- vi. Promote transparency and encourage and adhere to internationally common forms of accountability.
- vii. Recognize that they are accountable for their actions and that no one is above the law nationally and internationally.
- viii. Promote policies aimed at eradicating poverty and respect all human rights and civil liberties.
- ix. Demand and work for the peaceful and lawful transfer of power and promote and respect the separation of powers by ensuring financial autonomy of the judiciary and parliament, and ensure that the judiciary and parliament are free from unlawful interference by the executive?
- x. Adhere to a strong code of ethics and demand the same from all subordinate officials and cabinet ministries.
- xi. Do not use their office for personal gain and avoid or declare all conflicts of interest; they declare their personal and immediate family assets yearly.
- xii. Specifically eschew corrupt practices and expose those in their official capacities that violate national laws?
- xiii. Ensure human security and respect freedom of religion, the press, media, assembly and expression.

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It is the author's contention that the Declaration and the Code of Leadership could be applied, *mutatis mutandis*, to other Third World regions. In short, the logic and usefulness of the declaration and code are mondial, but most appropriate to developing nations.

Moreover, given the multi-ethnic character of the nation-state in much of the Third World, it might be necessary for political leaders to heed the wise counsel of Donald Rothchild (1985:82) regarding the amelioration of conflicts by encouraging some measure of ethnic balance or consociationalism in the composition of the national/regional cabinet. Indeed, he offered the following recommendations:-

1. The inclusion of major ethno-regional representatives in the cabinet and/or party national executive committee.
2. The preservation, when succession occurs, of a geographical balance in appointments to the president and prime minister as well as in the cabinet and political party.
3. The adoption of special measures to include minority ethnic interests in the decision-making process.

The assumption is that when the above recommended strategies are not implemented by political leaders centrifugal forces could be unleashed if the dominant groups use their numerical strength and clout to subjugate and suppress minority groups and their interests in the system. On the other hand, if the dominant groups and chiefs are politically magnanimous in sharing power with minority groups by applying the policy of inclusion that could promote centripetal tendencies in the polity and advance political and social stability, having regard to Sections 143, 144, 145 and 146 of Nigeria's Constitution, 1999.

Threats to Democracy

If there is one overriding truth about democracy, is that it is precious but vulnerable. The 21st century shows that the enemies of democracy are as numerous as they are threatening. The greatest threats to democracy does not always come from the barrel of a given or *coup de'tat*, but for the collected effects of poverty, apathy and political insecurity.

Another obstacle to democracy is that the value of its name often exceeds the principles of its practice. Democracy does not include oppression, corruption, division, segregation, terror and murder. A genuinely democratic nation thrives on diversity and difference, through which it builds on its collective wisdom, strengths, and irrefutable truths. At the Organization of African Unity (OAU), the African governments resolved to oppose any government which comes to power by means of military means.

Nigeria has been a sterling example of a country striving to consolidate democracy after years of civil war, military rule and mismanagement. The ways and manner in which the National Assembly, Judiciary, Federal Executive Council and the State Governors conducted statecraft to resolve

the Non-Handing Over Governance by former President Umaru Musa Yar'Adua, is a clear testimony that we are free to determine our own destinies.

Stability of Governance in Nigeria

Political parties vie with each other in promising “stability” if voted to power; “stability” is essential, it is argued, if the economy is to progress. While others may understand “stability” as the absence of frequent changes of government at the centre and the absence of frequent general elections, devoid of armed conflict between its different ethnic or religious groups.

What is often forgotten is that democracy however long established can never be taken for granted, and the autonomy of third world countries' economic policies are constantly under attack by imperialist forces whose basic agenda of making use of third world resources and inducing a transfer of surplus, remains unchanged even when these objectives, in today's world, are pursued not under old-style blatant forms of political control, but under newer forms of debt-conditional or client-state control. Imperialism welcomes above all, in a third world country, a stable government which is willing to integrate the country's economy in a subordinate position into that international division of labour which is most conducive to imperialist interests. Democracy can be jettisoned, but from the imperialist point of view stability is imperative. Without stability and the economic climate of “confidence” it generates, international finance capital, that global excrescence with its omnivorous appetite for poorer countries' assets, will not feel free to extend its delicate tentacles to the third world economies.

Stability per se thus means nothing in isolation from the policies which are pursued in the period of stability. On the contrary, the absence of this type of stability, namely the possibility of withdrawal of the people's mandate, is a necessary part of those curbs on arbitrary or opportunist government, which is the essence of the exercise of democratic rights. When mandates are misused, the people will naturally express displeasure at such misuse of mandates, and this represents not a negative fact is a positive deepening of democratic processes. The people of very few third world countries have enjoyed this right even after independence from colonial rule decades ago; they are struggling to attain it for the first time, as in Nigeria's political development on transfer of power. It is indeed a paradox that rather than cherishing our democratic rights, sections of our educated population are today falling prey to the fallacious “stability” slogan without really thinking through its implications, particularly the fact that it is being used to argue for an effective curtailment of democracy.

On Governance and Politics

The question of good governance has captured the attention of international institutions, including the World Bank, World Bank. And several inter-

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governmental organizations like the G-8 (G-8 Gleneagles 2005 Summit). Both institutions have made this issue a critical prerequisite in their aid and donation policies to countries with poor records on governance.

But what do we mean by governance? There is a temptation to use governance and government interchangeably. Government is said to derive from the Greek word *kyberman* which means to steer. Although there are several definitions or meaning of government. But for purpose of this article, government will be defined as a collective body of elected and appointed institutions empowered to legislate and adjudicate for the good of society.

While governance is conceptualized as the processes and systems by which a government manages the resources of a society to address socio-economic and political challenges in the polity.

Thus, a government is elected or appointed to provide good, effective and efficient governance. According to Daniel Kaufmann (2005:82), governance embodies “the traditions and institution by which authority in a country is exercised for the common good”.

A good governance system is defined by its relationship to some key prerequisites, including Accountability, Transparency, Participation, and Predictability.

It is pertinent to note that Daniel Kaufmann *et al* have identified six dimensions of governance which could be collapsed into the above categories. These six dimensions of governance are:-

1. “Voice and Accountability (VA), the extent to which a country’s citizens are able to participate in selecting their government, as well as freedom of expression, freedom of association, and free media.
2. Political Stability and absence of violence (PV), perceptions of the likelihood that the government will be destabilized or overthrown by unconstitutional or violent means, including political violence and terrorism.
3. Government Effectiveness (GE), the quality of public services, the quality of the civil service and the degree of its independence from political pressures, the quality of policy formulation and implementation, and the credibility of the government’s commitment to such policies.
4. Regulatory Quality (RQ), the ability of the government to formulate and implement sound policies and regulations that permit and promote private sector development.
5. Rule of Law (RL), the extent to which agents have confidence in and abide by the rules of society, and in particular the quality of

contract enforcement, the police, and the courts, as well as the likelihood of crime and violence.

6. Control of Corruption (CC), the extent to which public power is exercised for private gain, including both petty and grand forms of corruption, as well as 'capture' of the state by elites and private interests". Kaufmann.

In a mature democratic environment with a high degree of confidence in the elements of governance exemplified, for example, by Canada and the United States of America (USA), Accountability, Transparency, Participation, and Predictability) policy decisions reached via this approach have a higher probability of reflecting a balanced option anchored on informed reasoning, as compared to an infantile democratic environment represented by, for example, the Nigerian polity.

But there is an important qualifier in this comparative analysis. That is, the level and scope of corruption in either system. As a prerequisite for granting "poor countries" including Nigeria, debt forgiveness by the G8 at the Gleneagles 2005 Summit, the Summit agreed, *inter alia*: To provide extra resources for Africa's peace keeping forces so that they can better deter, prevent and resolve conflicts in Africa; and to give enhanced support for greater democracy, effective governance and transparency and to help fight corruption and return stolen assets.

The determination to enhance "greater democracy, effective governance and transparency, and to help fight corruption" in Africa was a pivotal theme on African development at the 2005 G8 Summit.

Democratic practices and good governance flourish in an environment where political elites possess the required leadership skills anchored on the tenets of democracy. It is essential that they represent a broader constituency beyond their immediate surroundings in articulating their respective policies, which derive from a sound knowledge of the rudiments of interest aggregation. Education, political consciousness and the level of poverty have a vital role to play in this process. It has been argued that "the euphoria of independence disguised the reality that (beyond a consensus in favor of independence) support for many African regimes was drawn from a narrow base, often with quite weak roots in the society at large" (World Bank, 2000). The political history of immediate post colonial African countries, including Nigeria, would lend credence to this thesis. For instance, national support for the Northern Peoples' Congress-National Council of Nigerian Citizens (NPC-NCNC) coalition government of Nigeria between 1960 and 1963 was weak. The senior partner of the coalition, NPC, was regional Northern-based party with insignificant following in other regions of Nigeria. National support for the coalition further weakened in the 1963-1965 period, because of the glaring absence of a universal construct to bind the diverse constituencies represented in the coalition and in the entire country.

The Effects of 'Non-Handing Over' Governance in a Democratic Nigeria

It is instructive to note, however, that the failure of politics and poor governance in less developed countries is not always due to the leaders of the respective countries. Very often the policies of international donor institutions, including the World Bank, play a crucial role in setting the countries astray as donor policies contribute to “undermining the ability of governments to affect national and strategic choices in public” policy (Kaufmann, 2005:74). While governments, without exception, recognize the value of good governance practices, most of them, especially in the less developed countries, face systemic challenges that hinder their implementation of those practices. First, as observed by the World Bank (2000:1): “the major political players who dominate the state apparatus are fundamentally unwilling to change their behaviour and to move toward more accountable governance”. Second, the regime lacks the capacity to affect good governance. Third, and perhaps of more vital importance is the role of donor organizations in dictating policy choices to recipient governments. The World Bank represents this group of donors, as witnessed by its structural adjustment policy (SAP) that was imposed on several Asian and African countries, including Nigeria. As now recognized by the World Bank (2000:3) “many of the earlier failures of” its public sector management “initiatives were the result of a failure to recognize this diversity in political and institutional starting points, and to tailor the reform program accordingly. Yet donors, including the Bank, persisted in providing technical assistance for improved management in contexts where the pre-conditions were not present”. Irrespective of the admitted policy failures of the World Bank, it must be stressed, however, that the success of good governance in any country depends on the leadership skills of the elected leaders and their attitude towards democratic practice.

Further Suggestions to Resolve the Political and Legal Problems in Nigeria

The 1960 Independence Constitution and the 1963 Republican Constitution provided solid foundations for good governance under a federal system in the country. The practice of federalism was on the right track until the military struck on January 15, 1966. There is an urgent need to review the 1999 Constitution so as to recapture elements of that period.

As entrenched in those documents, Nigeria federalism in the pre January 1966 period respected the jurisdictions of the federating units in key areas, including revenue derivation, agriculture and local police force. Each Region had its own constitution and flag. Therefore, in order to construct a renewed federalism it is vital that we recognize and respect the premises of good governance in a federal democratic polity. All matters that gave rise to the Niger Delta crises, will adequately be cured.

While it is conceded that federalism is not synonymous with good governance, the fact that Nigeria is a federal system suggests that we

consider the properties of federalism as prerequisites for good governance in a federal polity. As was indicated above, in a federal system, both levels of government—the central government and the states (federating units) – are independent, but never subordinate to one another, and the relationship between the central government and the federating units is horizontal and not vertical. Furthermore, federating units exercise exclusive jurisdictions over key areas of the economy and natural resources, and decide on which of their powers they would each concede to the federal government, excluding Defense, custom, and foreign policy which reside under exclusive jurisdiction of the federal government. There is a federation because federating units agree to federate. Adherence to these fundamental premises is essential in establishing a solid conceptual base for good governance in a Federal Republic of Nigeria.

The persistent clamour for state creation suggests that rational thought be given to the number of federating units that the system, as a whole, can adequately support. The fact that the four federating units as of 1963 have been balkanized into 36 states underlines a fundamental problem with the approach Nigerians have adopted on this issue. Besides the Midwest State which was constitutionally created in 1963 under a civilian government, most of the subsequent 32 states created by successive military dictatorships lack the capacity to survive as independent entities.

In restructuring Nigerian federalism thought must be given to the idea of basing it on ethnic nationalities. As a framework for a renewed federalism in Nigeria, we propose the construction of homogeneous federating units (states) for the top 10 most populous ethnic nationalities that have contiguous territories, and a maximum of 15 multi-ethnic federating units (states) for the other ethnic groups. Thus, there will be homogeneous ethnic-based states for the Hausa, Igbo, Ijaw, Kanuri, and Yoruba, etc., while the others will constitute a maximum of 15 multi-ethnic states (federating units). Ethnic nationality in a heterogeneous state will constitute an autonomous region with due constitutional jurisdictions.

CONCLUSION

The leadership issue, especially political problem, will likely remain the fundamental obstacle undermining the development in the Third World. It would, therefore, behoove us as serious scholars concerned with underdevelopment and democratic consolidation in the third world, with particular reference to Nigeria, to direct our research with greater vigor and rigor to this legal and political problems in order to assist these trustees of government to rule our society in a manner that could promote development, encourage peaceful coexistence, and advance political stability in the 21st century.

The Effects of 'Non-Handing Over' Governance in a Democratic Nigeria

The extent that Nigeria has survived 11 years of unbroken democracy, can be considered a victory for democracy. Elected public officials, a vast majority of whom were never in the military, have compromised the tenets of democracy, by allowing the rule of law to prevail and thus adhering to the constitutional provisions to handover governance to the former Vice President and swearing him as the President of Nigeria, without any form of bloodshed or *coup de'tat*.

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